United States Court of Appeals

for the Second Circuit

APPENDIX

75-1118

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United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-1118

UNITED STATES OF AMERICA,
Appellee,

—v.—

FRANK COTRONI and FRANK DASTI,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPELLANTS' APPENDIX

Volume III—Pages A-1623 to A-2200

JOHN NICHOLAS IANNUZZI
Attorney for Appellant
Frank Cotroni
233 Broadway
New York, New York 10007
(212) BA 7-9595

MICHAEL N. KLAR, ESQ.
Attorney for Appellant
Frank Dasti
1501 Franklin Avenue
Mineola, New York 11501
(516) 747-1100

DAVID G. TRAGER, ESQ.
United States Attorney for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
(212) 596-5600

UNITED STATES COURT OF APPEALS
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MAY 28 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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U. S. DISTRICT COURT E.D. N.Y.
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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

-against- :

FRANK COTRONI, FRANK DASTI, :

Defendants. :

----------x

73-CR-898

United States Courthouse
Brooklyn, New York

January 6, 1975
4:15 o'clock A.M.

B e f o r e :

HONORABLE JACOB MISHLER, Chief U.S.D.J.,

a jury and two alternates

TRIAL

EMANUEL KARR
OFFICIAL COURT REPORTER

(97)

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: THOMAS PUCCIO, ESQ.
Assistant U.S. Attorney

JOHN N. IANNUZZI, ESQ.
Attorney for Defendant Cotroni

MICHAEL KLAR, ESQ.
Attorney for Defendant Dasti

(At 1:00 P.M. of January 6, 1975, the impanelling of a jury and to alternate jurors was begun.)

(At 4:15 P.M., the impanelling of a duly constituted jury and two alternates was completed.)

(The trial then proceeded.)

THE COURT: Is the jury satisfactory?

MR. PUCCIO: Satisfactory to the Government.

THE COURT: Is the jury satisfactory?

MR. IANNUZZI: Yes, sir.

THE COURT: Satisfactory, Mr. Klar?

MR. KLAR: Yes.

THE COURT: Will the Clerk please Swear in the jury.

THE CLERK: Will the panel please rise and raise your right hands, please.

(The jury and two alternates were then Sworn.)

THE CLERK: Will you be seated, please.

THE COURT: Please excuse the rest of the panel.

THE CLERK: The jurors sitting in the back, you are excused to report downstairs to the Central Jury Room, please.

Will one of you come up for the cards.

(A talesman then was given the cards.)

THE COURT: Members of the Panel, those that have served on juries before this, civil or criminal, please

raise your hands.

(Three members of the jury raised their hands.)

THE COURT: Three members, we have three.

Now those that have never been inside a court house before today, please raise your hands.

Only one.

(Juror No. 7 indicated that he had never been present in a court house previously.)

THE COURT: I give a very brief preliminary talk, because there is usually a ratio of twenty-five to thirty, or forty percent of jurors who have never been inside a court house. It just occurred to me that jurors coming into a court house with these high ceilings and imposing marble and steel, might very well be distracted. It is important that the court house have the dignity, that the courtroom have the dignity that I believe this courtroom has. On the other hand, I want to make sure that the jurors are comfortable, that they feel at ease, and that they are ready to listen.

We see so many trials on television, and even though I usually have a trial going almost every day in the week with a jury, nevertheless, I do watch television, and they are pretty good entertainment, but I just don't believe the things that go on, and that you

see and I hope that you in no way relate what you see on television to an actual trial. Trials take days, weeks, and sometimes months, the television producer has about a half hour, or sometimes and hour to put on a show and it is for mere entertainment. It is presented for its drama, not for its truth, and it is intended for nothing else.

In a trial, your part of the trial, the jurors are judges in the very same sense that I am a Judge of the case -- and your job may very well be more important in the ultimate result itself, because the jury makes the verdict. I am here only to see that the trial is fair and is conducted according to the rules.

Now, all during the trial the lawyers will object to questions, and that is their duty, and I will rule on them. You must not fault any lawyer because he makes an objection. Don't be irritated because he makes many objections, that is his job, and my job is to rule on them solely as a matter of law. Now; because I rule against a lawyer doesn't mean I believe his case is bad, I just think on that objection in my opinion he is wrong, and in this trial, when I rule on the law, that is it.

Very often during the trial when the lawyer

makes objection, I will excuse the jury, and you will be walking back and forth many times, you may cover ten miles during this trial, but that is only because it is my method of trying the case. Many Judges call the lawyers to side bar, and they are whispering. For myself, I found that unsatisfactory because sometimes whispers drift across the courtroom, or worse yet, the jury becomes irritated because they are not let into it, you see, and they just hear whispers, and they sit there.

Now, of all the Judges in this court, I think I am the only one that does it this way. I think one Judge copied it for a while and decided he didn't like it, so not every Judge likes it, so far they haven't rushed to follow it, it is just my method. It is not the lawyers' choice. Don't be irritated by it.

I am going to excuse you for a few moments so that you can put your clothes away, and when you come back, we will hear the opening statements of counsel. each counsel can, if they wish, state their position, and that includes the Government. It is not evidence. What a lawyer says serves a useful purpose, but it is not evidence. Opening remarks are just an aid so that when the testimony comes in you will be able to follow it more readily, you will get a broad outline of the

picture which the sides hopes to paint, the Government on one side, and the defendants on the other.

After that -- and we won't go beyond the opening statements today -- the Government will produce its witnesses.

Now when a witness is called, the first examination is called the direct examination. After the Government completes the direct examination, each lawyer has the right to cross-examine the Government's witness, and normally the purpose of cross-examination is to test the truth, the credibility of that witness.

Then, the Government, if it wishes, may take a witness on redirect examination, and then if the Government does that, then the defendants have the right to recross. There are times when I will admit additional examination, and if you want to call it re-redirect and re-recross, it doesn't matter, but you may find that will happen.

When the Government is finished, the defendant is not obliged to offer any proof, he can submit the case to you and then you will have to determine on the submission of the case to you on the Government's proof alone, you will have to decide on that proof whether the Government has sustained its burden. If it hasn't then you find the defendant not guilty. If it has, you

find the defendant guilty. But if the defendant does produce witnesses, then again the examination of defendants' witnesses will be the direct, and then the Government has the right to cross-examine the defendants' witnesses.

Then, when all the witnesses have testified, the evidentiary part of the trial is completed, and the attorneys then have the right to come before you again. The first time was to tell you what their positions are, what they intended to prove, the summation is intended to argue theories of exculpation on behalf of the defendants, which means non-guilt, and theories of inculpation on behalf of the Government, which means guilt. In other words, the defendants will argue that the Government failed to prove its case by proof beyond a reasonable doubt, the Government will argue that it did.

After all of that is done, then I will Charge you on the law.

After the Charge, you will go in and deliberate on the matter.

Now, not until that point do you have the right to discuss this case in any fashion, that is, the evidence in any way, and I will instruct you each evening to make sure that you don't do it, not even among your

selves.

So that, briefly, is the outline and meaning of the case.

The lawyers are here to develop the evidence for the jury to see, the Judge is here to rule on the law and to see that the trial is fair and according to the rules, and the jury is here to decide the facts, and that includes the ultimate determination of guilt or innocence of the defendants.

Now take a few moments to hang up your clothes, and then come back into the courtroom.

The Government opens first, then the defendants open, the summations are in reverse order, the defendants sum up first, and the Government last.

Yes? Do you have a question?

JUROR NO. 12: Your Honor, if one of us has a question about anything that is going on, is there anything that we can do?

THE COURT: No. You see, I know on television that is one of the things that happens, after the lawyers ask questions, the jurors get up and start asking questions, but we would have pure chaos if that happened. This is called an adversary proceeding, it is the lawyers who are adversaries, and it is their case to try.

Now, if there is something that bothers you or

you write it out, I will turn it over to the lawyers. If it is a question of procedure, or it may be a personal question, then I will answer it.

If everything is done in open court and on the record --

JUROR NO. 12: If you didn't hear anything, or something like that?

THE COURT: Well, I will instruct you at the time --

JUROR NO. 12: Okay.

THE COURT: You must hear every word that is spoken, and if you don't, I will ask you to raise your hand and it will be repeated by the Reporter.

There isn't a thing that is said in this courtroom that isn't taken down by the Reporter. As I tell them, put everything down except breathing.

The jury is excused for a few moments.

(At 4:30 P.M., a ten minute recess was taken.)

(continued on next page.)

(The jury took its place in the jury box.)

THE COURT: Before you start, Mr. Puccio, I understand one or more of the jurors inquired about note-taking.

I have no objection to note-taking, if you wish. I will have some pads passed among you, and pencils, but you must understand that it is for your own personal edification and recollection. The danger in note-taking is that you might use it to convince other jurors as to what was said, and you might just have a ringing phrase or a line or a statement, and it should not be used for that purpose. We will have a full transcript of this trial, and if, during your deliberations, you want any part of it read back, I will read it back to you.

Now, if you feel better taking notes, go right ahead and do it.

Mr. Puccio.

MR. PUCCIO: Thank you, your Honor.

(continued on next page.)

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MR. PUCCIO: Mr. Iannuzzi, Mr. Klar; Mr. Foreman, Ladies and Gentlemen:

My purpose in this opening statement, as it is called, is to summarize briefly for you the evidence which I will be presenting over the next couple of weeks on behalf of the Government.

It is not my purpose to give you all of the details which you will hear through the testimony of the witnesses, because as you have already been told many times, it is the testimony of the witnesses which you consider, and which is important in the determination of the verdict.

I will give you a background or an outline of the testimony so that as the witnesses testify you have a skeleton which you can fill in.

First of all, as has already been alluded to, the defendants are charged with a Conspiracy to Import, Receive, Buy and Sell Narcotic Drugs, and in this case the narcotic drug we are speaking of is cocaine. They are charged specifically that from the 1st of December, 1970, to the 30th of April, 1971, of having participated in this narcotics Conspiracy.

Judge Mishler later on in the case will give you instructions and tell you what a Conspiracy is legally.

Suffice it to say for now, a Conspiracy is nothing more than an agreement to accomplish an unlawful purpose, and it is an agreement which has to be acted upon, and I submit to you that the evidence which you will hear from the Government, or through the Government witnesses, will show that in fact there was an illicit Conspiracy or agreement which was acted upon.

The defendants are also charged with concealing and transporting and facilitating the transportation of narcotic drugs in the Eastern District. Specifically, they are charged with the transportation and concealment of nine kilograms of cocaine, and that is the substantive count in the indictment, and about which you will hear more from Judge Mishler at the end of the case.

I think it is important to note at the outset, and I will use an analogy, if I may, and the evidence in this case will bear the analogy out, that the illicit traffic in narcotics, or the international trading in narcotics is very similar to a business, to a legitimate business:

Just as in a legitimate business, the individuals involved are motivated by profit, a desire to seek a

profit, and just as in a legitimate business, there are profits in fact realized -- and there are losses -- and just as in a legitimate business, the energies of those involved are directed towards the development and sale of a product or a service, and in this case the product was narcotics, and the specific product was cocaine.

And just as in legitimate business there is combination, there is a combination whose function and talents it is to achieve the desired result -- and in this case the desired result was the illegal importation of nine kilograms of cocaine into the United States from Mexico;

And as in a legitimate business, so in the illicit narcotics trade, there has to be someone who supplies the narcotics, and there has to be someone who sells the narcotics, and there is normally someone who buys the narcotics.

And as in a legitimate business, there is one who transports the product and is responsible for bringing the product from the seller or the producer to the buyer; so I submit to you that based on the evidence in this case, you will see that the same thing is true in the narcotics business, there is someone who is

responsible who is given the job of transporting the product, as we call it, from the supplier or seller, to the buyer;

And often in legitimate business, or in legitimate industry there is a person who brings -- a person or persons, I should say, who brings the buyer and the seller together, so I believe you will see from the evidence in this case that the two defendants, Mr. Dasti, and Mr. Cotroni, fulfilled that function, because they were the middlemen who bring the seller and the buyer of narcotics together, as the evidence, I submit, will point out.

Now, as in many business today, international boundaries are no factors, and of course, in the illicit narcotics trade, international boundaries mean nothing.

You will hear testimony in this case pertaining to Mexico, to the United States, and to Canada.

Further, as in any thriving business, the amount of time, the amount of money, and the amount of travel, the amount of expense is no object, and you will find in this case that much time is spent, much money is spent, in accomplishing the objectives -- and you will even find that overtime is put in, and you will hear testimony that people talked into the night, and even

worked on weekends.

Now, as in any sale of a product, there are negotiations which led up to the sale itself, and the same is true, I submit, in the narcotics business, and you will hear testimony that there were negotiations and that a price was agreed upon. Of course there were differences between the parties, but I don't suppose that they are important to know at this point, but suffice it to say that the narcotics business is not conducted out in the open, it is conducted, hopefully -- or at least the participants try to conduct the business in secret, and the terminology used is not always the same as the normal terminology used in legitimate business:

The terminology is almost always guarded, people, and you will hear this from the testimony, don't always say what they mean, but there is always a way for the other person to understand what they mean.

Now, at this point, let me summarize for you briefly what I expect the evidence will show in this case:

We expect to prove through the testimony of witnesses that in December of the year 1970 the defendant Frank Cotroni, a Canadian citizen, was in Mexico

City, Mexico, and in that same city at the same time was a gentleman whom he knew very well, a gentleman named Guiseppe Catania, an Italian citizen residing in Mexico, who had a shirt business;

And also in the city at the same time was a gentleman, a Mexican citizen, whose name was Jorge Asaf y Bala, and Mr. Asaf y Bala, as you will hear from the testimony, was an associate of Mr. Catania, both an associate in the legitimate business and enterprise, and an associate in the narcotic business, as you will hear from the testimony, Mr. Catania and Mr. Asaf y Bala were partners in the illicit narcotics trade.

And we expect to prove that during December, 1970, Mr. Asaf y Bala was in possession of a quantity of cocaine, and he spoke to his partner, Mr. Catania, and asked Mr. Catania, knowing that Mr. Cotroni was in Mexico, if he would ask if he, Mr. Cotroni, would be interested in purchasing a quantity of cocaine, and the testimony will show that Mr. Catania did speak to Mr. Cotroni in December, 1970, in Mexico, and did ask Mr. Cotroni if he was interested in purchasing a quantity of narcotics.

(continued on next page.)

MR. PUCCIO: (Addressing jury.) The testimony will show that Mr. Cotroni told Mr. Catania that he would have to consult a friend of his before agreeing to make the purchase, and ultimately, during the latter part of December-the early part of January of the year 1971, the evidence will show, Mr. Catania and Mr. Cotroni the defendant in this case, came to an agreement that Mr. Cotroni would purchase, would receive nine kilograms, or approximately 20 pounds of cocaine;

And it was also arranged, the evidence will show, -- I might say that the agreement was to purchase the nine kilograms for $11,000 per kilogram -- and the testimony will also show that in accordance with the arrangements made in December, or early January, in Mexico City, Mr. Catania spoke again with Mr. Asaf Y Bala, his associate both in the narcotics trade and a business partner, and arranged for an individual named Claudio Martinez to transport the narcotics from Mexico City to the United States.

The evidence will further show that Mr. Catania personally made arrangements with Mr. Martinez, who was to act as courier, for him to deliver the narcotics, the nine kilograms of cocaine, across the Mexican border into Dallas, Texas, and it was arranged for Mr. Catania

at a later time to meet with Mr. Martinez at the Marriott Inn an Dallas, Texas, and to fly with Mr. Martinez to New York City where the delivery was to be made according to Catania's arrangements with the defendant Cotroni;

The evidence will further show that approximately January 7, 1971, Mr. Catania traveled by airplane through the United States to Montreal, Canada, and to Montreal, on approximately January 8, 1971, Mr. Catania met with the defendant Cotroni and the defendant Dasti, who was the friend of Mr. Cotroni, and of whom he has spoken of a little earlier, at the Pescadore Restaurant.

And the evidence will further show that at this dinner meeting at the Pescadore Restaurant in Montreal Canada, Mr. Catania and Mr. Cotroni and Mr. Dasti, who is also a defendant in this case, agreed that the delivery of the narcotics would be made in New York City on Sunday, January 10th.

Pursuant to this arrangement, Mr. Catania left Montreal on Saturday, the 9th of January, 1971, and traveled to Dallas, Texas, to meet with the carrier, who had transported the narcotics from Mexico City, namely, Claudio Martinez, and that on the same day, January 9, 1971, Mr. Dasti left Montreal, and traveled to New York, and registered at the Drake Hotel in New

York City;

The evidence will further show that Catania arrived in Dallas, Texas, on the morning of January 10th to meet with Claudio Martinez, who had the nine kilograms of cocaine concealed in a leather traveling bag;

Further, that Mr. Catania traveled with Claudio Martinez from the Ramada Inn in Dallas, Texas, to New York City, and registered in the Taft Hotel.

The evidence will further show that on Sunday, January 10, 1971, Mr. Dasti met with Claudio Martinez and Guiseppe Catania, in New York City, and arrangements were made on that day for the delivery of the cocaine to take place.

The evidence will further show that on January 10th, Mr. Dasti explained to Mr. Catania and Mr. Martinez that the delivery of the narcotics in New York City would not be made to him, but would be made to another person named Paul Oddo;

And the evidence will further show that Mr. Catania traveled from the hotel where he was staying, the Hotel Taft, by taxicab, to a hotel on 72nd Street and Broadway in Manhattan, namely the Hotel Riverside Plaza, and delivered in that hotel the nine kilograms of cocaine to the man named Paul Oddo.

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Puccio-opening

Now, the evidence will further show that on the next day, which would be January 11th, 1971, Mr. Catania again traveled to the Hotel Riverside Plaza pursuant to the instructions of Mr. Dasti and collected a shoe box containing $43,000 in cash from Mr. Oddo as part payment for the cocaine.

The evidence will further show before Mr. Catania and Mr. Martinez left New York City, Mr. Catania made arrangements with Mr. Dasti for Frank Cotroni, who would be traveling to Mexico, to take the remainder of the payment to Mr. Catania.

The evidence will further show on January 12, 1971, Mr. Catania traveled from New York City by airplane to Mexico City, Mexico, and met with his partner, Jorge Asaf y Bala, and delivered to him $43,000.

The evidence will further show that Mr. Catania subsequently met with Mr. Cotroni in Mexico City and received additional payment of $7,000.

The evidence will further show that Mr. Catania met with Mr. Cotroni to receive $4,000, and did in fact receive $4,000 which had been transported from Montreal by a gentleman called Guido Orsini.

The evidence will further show that the

entire amount owed by Cotroni and Dasti and the others to Mr. Catania and Mr. Asaf y Bala for the narcotics was never paid.

That, in summary, ladies and gentlemen, is the Government's case and the testimony that you will hear.

I would like to take a minute, if I could, and give you an idea of the types of witnesses that will be produced or give you the names of a few of the witnesses that will be produced to establish that what I just mentioned did in fact happen.

First of all, Mr. Guiseppe Catania will be called as a witness for the Government in this case. I might mention a word about him right at the outset.

Mr. Catania, of course, is, as you could tell from the summary of the facts that I just gave you, a participant in this 9 kilogram of cocaine transaction -- was a participant in this illicit or illegal conspiracy to transport and sell drugs to the United States and sell drugs in the United States.

Mr. Catania is a self-confessed criminal, and Mr. Catania has in fact, as you will hear from the testimony, pleaded guilty to charges in the United States stemming from his activity in the narcotics trade.

Mr. Catania, as you will hear from the testimony, has been offered the opportunity by the Government to plead guilty to lesser charges in order to obtain his testimony and his cooperation.

Now, I ask you, when listening to the testimony of Mr. Catania, to check his testimony against the other evidence -- independent evidence in this case -- and see if his testimony, what he tells you from the witness stand, is consistent with everything else that you hear from the other Government witnesses in this case.

Now, in addition to Mr. Catania, and Judge Mishler alluded to this during the jury selection -- there will be presented in evidence in this trial tape recordings of conversations which we submit pertain to this narcotic or cocaine conspiracy.

We expect to show that the tape recordings were made by members of the Quebec Police Force, and that the personal telephone lines of Mr. Catoni, a defendant in this case, were intercepted, that the personal telephone of Mr. Dasti, also a defendant in this case, were intercepted, that a gambling club that Mr. Dasti frequented had its telephone lines intercepted in connection with the investigation

conducted by the Quebec Police Force, and I submit to you, and I ask you to listen to the conversations and compare them -- the conversations which are recorded -- to the testimony of Mr. Catania in this case.

I might make one comment about the recordings at this point. I think the testimony will bear it out. I ask you to listen to the recordings and to bear in mind as we submit that the language employed in these conversations is not always that obvious, that the terminology used is not always that common, that the method of communication is in fact almost always guarded, and I ask you to pay close attention to what is said in the conversations and to compare what is said with the other evidence in the case.

Now, in addition to the testimony of Mr. Catania, which I have already told you about, we expect to present some seventeen telephone conversations. There will also be presented for your consideration the testimony of various United States Government agents and Canadian officials -- Canadian law enforcement people who conducted an investigation based upon the conversations they were intercepting and conducted surveillances of the defendants and their

associates who we allege were involved in this cocaine conspiracy.

I ask you again, when hearing the testimony of the agents who conducted the surveillance, both American and foreign, to compare the testimony of the agents to the testimony of Mr. Catania, and to see if Mr. Catania's testimony is consistent with the observations made by the agents.

Now, my job here is to present the Government's case and to present the testimony of witnesses, and it is clear that the witnesses will speak for themselves, and that what I say is not the testimony.

I ask you to consider very carefully and listen very closely to the testimony you will hear over the next couple of weeks and to examine the exhibits which are offered into evidence, because it is upon this testimony and those exhibits that you will be asked at the end of the case to render a decision. Thank you.

THE COURT: Mr. Iannuzzi.

MR. IANNUZZI: If it pleases this Honorable Court, Mr. Puccio, Mr. Klar, Mr. Polakoff, Mr. Foreman and Ladies and Gentlemen of the Jury:

As Mr. Puccio has so rightfully indicated,

this is the first opportunity that the attorneys representing each side, if you consider that there be two sides, although there be two defendants -- although there might be three -- that the attorneys have an opportunity to discuss with you not the evidence, but what they anticipate will be the evidence and as I have said many times before, and I repeat again and will repeat at the end of the trial when I have my last opportunity to talk with you at the summation, what I say is not evidence. Nothing I say is evidence. Nothing that Mr. Puccio says is evidence, and the Court has indicated that nothing he says is evidence.

We anticipate witnesses coming in with the evidence.

In most instances the role of the attorneys is merely to gather the evidence. As I said before, Mr. Puccio in favor of the Government's case and myself in favor of the defendant's case. We do not pick or choose the witnesses. We just present them, and it is for you to decide what the evidence means. Mr. Puccio has indicated that the opening is like a skeleton.

It is true it is like a skeleton, and I think

the evidence will show in this case the entire skeleton's spine is built around a person named Catania. Just as you know the spine of a skeleton supports all of the other parts of it, without the spine you have a jumble of bones. I suggest that the evidence will show that in this case without Mr. Catania filling in with evidence or with what he says is evidence, the case has not much composition.

I suggest that there are tapes that the Government intends to introduce. I suggest that we will learn how they were taken and how they were preserved, and I suggest that there will be more to say about those tapes later.

I suggest that Mr. Puccio and I will agree on many things -- maybe their meanings we won't agree about, but the factual circumstances we will agree about.

In these recordings -- if they be actual recordings and if they can be accepted on their face value, we have, as Mr. Puccio says, vague, guarded conversations, which are basically almost meaningless -- they are almost meaningless.

When you hear the conversations it will be as if you are overhearing a conversation because

they are between other people, and you will listen to them.

I think the evidence will show that these conversations are basically without meaning, except if Mr. Catania explains what they mean, and that there may be evidence that Mr. Puccio says will be consistent, that is to say, by the testimony of agents -- that will be consistent with -- that with which -- I am sorry -- it will be consistent with that which Mr. Catania says.

Well, it will be consistent only to the extent that the officers can say that they saw some people, but only Mr. Catania can tell you what was heard, what the meanings are.

In other words, you have the bones, you have people being seen in each other's company, and the officers cannot tell you what they were talking about, but Mr. Catania will.

I suggest that the evidence will show that Mr. Catania, himself, has been involved in -- well, the Judge said that we have two separate cases here against each defendant. I suggest that Mr. Catania was then arrested in this country, according to the evidence, had many, many, many cases pending against him or at least could have been brought against him,

and each of them had very, very grave penalties involved, and that after being arrested, the evidence will show that Mr. Catania agreed to testify against other people, including these defendants, if he would be given consideration concerning the very, very grave penalties that he was facing.

I think the evidence will show that Mr. Catania is a man who actually will admit to you in this court that he participated in the importation or the transacting of hundreds and hundreds of pounds of heroin.

The evidence will show that he will have been permitted to plead guilty to one case, one count, of a far less serious nature in consideration for his testimony.

The evidence will show that in addition he has been receiving support for himself and his family since his arrest, that he hasn't been treated like a criminal. He has been treated in a family kind of situation, with support, with airplane tickets, that he, in fact, the evidence will show never expects any serious problems to result from his activities prior to this case.

In anticipation of this, Mr. Catania agreed to testify against these defendants, and I represent

Mr. Cotroni, and I suggest that the evidence will show that he never had any background in narcotics, that he knew Mr. Catania in Canada in ordinary business dealings. As a matter of fact, he even helped Catania in some of his legitimate business dealings, and Catania did have -- perhaps as a side line -- some legitimate businesses, and that because he was in Mexico Mr. Catania made some arrangements for Mr. Cotroni to go there for vacation. He would get a rental agency to rent a house for him. In other words, make some contacts which were easier to be made right at the scene of the vacation than from some two or three thousand miles away.

While Cotroni was there in Mexico, he continued to make arrangements for Catania in reference to a legitimate business.

It is the making of custom shirts in Mexico. He arranged, the evidence will show, to get cloth and unavailable materials for Catania.

The evidence will show during the end of 1970, the beginning of 1971, Mr. Cotroni did go back to Montreal from Mexico, did arrive back in Mexico, but not to meet with Catania, not to have any transactions with Catania, but for very legitimate

personal problems that had arisen, and while Mr. Puccio indicates all the evidence that he will produce or hopes to produce, I suggest that you pay attention to the evidence as it is put before you to determine what there is that exists other than Mr. Catania putting each piece into place.

Perhaps it doesn't fit there. For instance, you have conversations. Listen to the conversations. They are about suits, they are about rents, they are about who knows what, but they are vague and guarded, and Mr. Puccio has indicated one of the defendants was a gambler.

I suggest that my client has been involved in a lottery. He had two jobs, but in addition to that there was a lottery because Canada did not have a hockey lottery, and he supplied it. Maybe that wasn't legitimate, but it wasn't narcotics.

If you are involved in something not legitimate, letting people bet on hockey games, perhaps there is a reason to have a conversation that doesn't spell it out.

You will see that the conversations have all kinds of meanings. You could read almost anything into them.

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It is Mr. Catania who decides to make it narcotics. I think the evidence will show in this case there aren't any narcotics. You won't be presented with narcotics here. You won't be presented with money. You won't be presented with shoe boxes.

You will only be presented with Mr. Catania's interpretation in saying that this is what really was.

You won't be presented with police officers or agents who will say that this is what happened. They will say, "I saw people together, but I don't know what they spoke about."

Catania, who is fighting to stay out of jail, will put it together. Not only will you be shown that Catania is fighting to save himself from very severe problems in the United States, but also it will become clear that Mr. Catania developed bad feelings for the defendant Cotroni, bad feelings because he had attempted to steal, to commit a fraud against Cotroni, and it was found out because after his arrest he sought help from Mr. Cotroni, and because he had had this bad feeling Cotroni didn't offer him any help. He had bad feelings. He has a bad situation as far as the penal laws of United

States are concerned, and he suddenly found himself an opportunity to go home to his wife and five children, or four children, and that is by his testimony in this case.

I suggest that you pay attention to the testimony and consider it, and how the case has been put together and where the evidence is coming from, and whose mouth it is coming from.

I suggest that you just be kind enough to keep your eyes and ears open and listen to the evidence and its full weight, and at the end of the presentation of the evidence I will have an opportunity to again speak with you. Thank you.

THE COURT: Mr. Klar.

MR. KLAR: I am going to pass at this time, your Honor.

THE COURT: You waive the opening?

MR. KLAR: Until the conclusion of the Government's case.

THE COURT: I won't allow it then. Open now or waive.

MR. KLAR: I will waive my opening, your Honor.

THE COURT: Opening waived.

We will suspend at this time.

I ask you not to discuss this case with anyone when you go back to your respective homes or when you reconvene.

I ask you not to read any newspapers tonight or tomorrow.

When you come in tomorrow morning, register down in the central jury room downstairs in the first floor. After you do that, come to the jury room adjoining the courtroom.

The case will continue tomorrow. Come at ten o'clock. That means you should get to the courthouse about twenty of ten, register downstairs, and then you will be here in time to continue the case at ten. I expect to start promptly at ten o'clock.

THE FOREMAN: Do we go through here to enter the jury room?

THE COURT: You go through the interior halls. My courtroom deputy will show you how to get out from the interior halls. It is important that everyone get here on time. If one is missing, we must wait for everyone to get here.

The jury is excused.

(The jury leaves the courtroom.)

THE COURT: When will you submit your requests to charge?

MR. IANNUZZI: How soon do you want them before the charge? May I ask it that way?

THE COURT: I would like it on next Monday, January 13th, at the end of the day.

MR. IANNUZZI: I will attempt to get them all for you.

MR. PUCCIO: Since the indictment here is similar to the indictment in United States against Toscanino, we won't have any additional charges.

THE COURT: There is one material difference that I see.

MR. PUCCIO: There is a substantive count where there was only a conspiracy.

THE COURT: This is cocaine.

MR. PUCCIO: Yes, the Gonzales case.

THE COURT: United States against Turner.

MR. PUCCIO: There were later cases that indicated to me that a kilo was a substantial amount of cocaine, and therefore the inference was permissible. Since there is alleged to be 20 pounds in this case, I do not think, unless your Honor requests, that we would submit anything special.

I have a bill of particulars that I have given to counsel that I would like filed.

THE COURT: All right, leave it, and it will be marked.

There is one thing that confuses me on the statutory law of Canada. The Bell Telephone Act was really an act to incorporate the Bell Telephone Company and this figure 1880, was that the date of the Act?

MR. PUCCIO: I would doubt it.

THE COURT: I know the telephone was invented--

MR. PUCCIO: In the 1900's.

Is this in the statute that Mr. Miranda submitted?

THE COURT: I do not have them before me.

MR. IANNUZZI: It has been mentioned many times in conjunction with that particular section.

THE COURT: I do not know what it means.

There is another act that was discussed in one of the cases, and I think it is Section 112 of the Telephone Act of Ontario.

MR. PUCCIO: Section 24 is is the identical provision in Quebec.

THE COURT: 23 and 24 of that section is cited, which is similar to 25.

MR. IANNUZZI: 23 and 24 are similar to 112, but they are from different provinces.

MR. PUCCIO: In Ontario you have 112, but in Quebec you have 23 and 24.

THE COURT: There is also a section 25.

MR. IANNUZZI: That's the Bell Act, which is nationwide. I think there are three separate ones, the Bell Act and the Ontario and Quebec ones.

THE COURT: I searched through Mr. Landry's opinion and Mr. Miranda's opinion, and I could not find the answer.

MR. PUCCIO: I think in Mr. Landry's opinion he points out the Copeland v. Adamson case and points out that the Quebec and Ontario Acts are similar.

MR. IANNUZZI: The one that we are talking about, 1880, is parliamentary, which is nationwide.

THE COURT: As I recall, it was the incorporation of the Bell Telephone Company. I couldn't understand why 1880 was used. I thought it could have referred to another method of communication and later when the telephone was invented, that it was taken over.

MR. PUCCIO: Maybe it is telegraph.

I think we could check it.

THE COURT: All right. I cannot get any enlightenment here either.

MR. PUCCIO: Do you want the date it was

passed?

THE COURT: Which province passed which act.

MR. PUCCIO: Does your Honor have the discovery material there?

THE COURT: I have it inside.

MR. PUCCIO: I believe in Mr. Landry's letter he says discuss it --

THE COURT: He just refers to the Copeland opinion.

MR. PUCCIO: He also refers to the fact that in the Copeland opinion --

THE COURT: All right.

Incidentally, I start promptly at ten o'clock.

MR. IANNUZZI: Very well.

THE COURT: If the lawyers are not here, but the jury is here, and I am here, I will bring the jury out, and we will sit in the courtroom with folded arms, and wait for you to come in. If either side has any application to make before the Court, it is to be made before ten o'clock. You decide how much time it is going to take. If it is fifteen minutes, call your adversaries and say, "Appear in courtroom 5 at 9:45." Let me know, and I will come in and hear it.

If the jury is here at ten o'clock, I want them to start hearing the testimony.

MR. PUCCIO: We will be prepared at ten o'clock to start the first witness.

THE COURT: Tomorrow I will suspend at 4:30, but after that, I will go to 5:30, 6:00 o'clock.

MR. IANNUZZI: I have a slight scheduling problem, which isn't a problem to me. The Fifth Circuit scheduled me for the 22nd or 23rd of January to argue a case. I called them and said that I did not think I could make it. I might be able, but I had to anticipate that I wouldn't be able to.

They indicated that I would have to make a motion, but engagements in other legal matters wasn't an excuse.

Your Honor wouldn't consider relieving me for one day or suspending the proceeding for one day while I get down to the Fifth Circuit, would you?

THE COURT: I don't see how I could avoid it.

Are you going to argue that case?

MR. IANNUZZI: I prefer not to, but they said they require it. I said that I would submit. I will try and make arrangements. I just wanted to see what your Honor's -- maybe I could put it down for a Friday?

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read it.

MR. PUCCIO: Can I read it now and sign it later?

MR. IANNUZZI: Deem it to be signed, so to say.

THE COURT: All right.

MR. PUCCIO: I will read the stipulation:

"It is stipulated and agreed to by and between the attorney for the Government and the attorneys for the defendants that in the event that one Claude Lavallee were called as a witness for the Government, he would testify to the following:

"1. He was a member of the Quebec Police Force during the years 1970 and 1971.

"2. On July 7, 1970 he installed a wiretap on a telephone located at the Victoria Sporting Club, 837 Taschereau Blvd., Longueuil, Canada. The number of the telephone line was (514) 677-9272. The wiretap was in operation from July 7, 1970 to March 25, 1971.

"3. On July 7, 1970 he installed a wiretap on a telephone located at the Victoria Sporting Club, 837 Taschereau Blvd., Longueuil, Canada. The number of the telephone line was (514) 677-0378.

The wiretap was in operation from July 7, 1970 to June 23, 1971.

"4. On October 20, 1970 he installed a wiretap on a telephone located at the residence of Frank Dasti, 4635 Clanranald #418, Montreal, Canada. The number of the telephone line was originally (514) 488-0339 and later (514) 488-2470. The wiretap was in operation from October 20, 1970 to March 1, 1971.

"5. On November 2, 1970 he installed a wiretap on a telephone at the residence of Frank Cotroni, 6649 Chauvin, Montreal, Canada. The number of the telephone line was (514) 256-7978. The wiretap was in operation from November 2, 1970 to April 24, 1971.

"6. On January 9, 1971 he installed a wiretap on another telephone at the residence of Frank Cotroni, 6649 Chauvin, Montreal, Canada. The number of the telephone line was (514) 256-9659. The wiretap was in operation from January 9, 1971 to April 4, 1971.

"7. On December 11, 1970 he installed a wiretap on a telephone located at the Salon Pierre, 17 St. Catherine, East, Montreal, Canada. The number of the telephone line was (514) 842-0482. The

wiretap was in operation from December 11, 1970 to September 27, 1973.

"8. On December 11, 1970 he installed a wiretap on another telephone located at the Salon Pierre, 17 St. Catherine East, Montreal, Canada. The number of the telephone line was (514) 849-3865. The wiretap was in operation from December 11, 1970 to May 13, 1971.

"9. On December 10, 1970 he installed a wiretap on a telephone located at the residence of Santo Mendolia, 6605 Fabre, Montreal, Canada. The number of the telephone line was (514) 274-1114. The wiretap was in operation from December 10, 1970 to July 24, 1972.

"10. On January 9, 1971 he installed a wiretap on a telephone located at the residence of Guido Orsini, 7155 Bordeaux #4, Montreal, Canada. The number of the telephone line was (514) 374-0449. The wiretap was in operation from January 9, 1971 to February 16, 1971.

"11. On January 16, 1971 at 10 a.m. he installed a wiretap on a pay telephone located in the lobby of the Laurentian Hotel, 1130 Peel Street, Montreal, Canada. The number of the telephone line

was (514) 861-0615. The wiretap was in operation for approximately fifteen (15) minutes.

"The above wiretap installations enabled members of the Quebec Police Force to tape record all conversations had over the above telephone lines during the periods indicated."

MR. IANNUZZI: That is stipulated to by the defendant Cotroni, sir.

MR. KLAR: It is stipulated to by the defendant Dasti.

MR. PUCCIO: We call Arthur Sedillo, your Honor as the next witness.

A R T H U R M. S E D I L L O, called as a witness on behalf of the Government having been first duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: Be seated.

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Sedillo, what is your present occupation?

A I am an agent with the Drug Enforcement Administration.

Q For how long have you been so employed?

A Approximately six years.

Q What is your present office or assignment?

A I am the country attache in La Paz, Bolivia.

Q Now, was there a time, Agent Sedillo, during your career with the Drug Enforcement Administration or its predecessor agency, the Bureau of Narcotics and Dangerous Drugs, that you were assigned at the regional office at Mexico City, Mexico?

A Yes, sir.

Q During what period of time were you assigned at the office in Mexico City?

A From September of 1970 to approximately August - no,'til August 8 of 1974.

Q Now, I would like to direct your attention specifically to the early morning hours of December 19, 1970. At that time were you on duty as an agent with the Bureau of Narcotics and Dangerous Drugs?

A Yes, sir.

Q And did you conduct a surveillance during those early morning hours?

A Yes, sir.

Q Where did you conduct the surveillance?

A At the Mexico City International Airport and in the Mexico City downtown area.

Q Were you accompanied at that time with any other U.S. -- accompanied by any other U.S. or Mexican law enforce-

ment people?

A Yes, sir.

Q Can you tell us who they were?

A Yes, Agent Kessler, who was with the U.S. Customs, was with me and also there was a group of Federal Narcotic -- Mexican Federal Judicial Police that are stationed at the airport.

Q Now, did you have occasion at that time to observe the passengers that departed from a specific flight that had arrived at the Mexico City airport?

A Yes.

Q What specific flight, if you recall, were you surveilling?

A It was the Canadian Pacific Airline flight No. 504 that came from Canada to Mexico City.

Q Now, you say you did observe passengers who had embarked from this particular flight; is that correct?

A That is correct.

Q Do you see anyone in the courtroom now who embarked from that particular flight that landed in Mexico City on December 19?

A Yes, sir.

Q Will you point to whoever it is, please?

A It is the second man at this table that

deplaned from the aircraft (indicating). That is the gentleman (indicating).

(Defendant rises.)

THE COURT: Let the record indicate that the witness pointed out the defendant Frank Cotroni.

Q Now, was Mr. Cotroni, as best you can recall, alone or were there people with him?

A He was with other people.

Q And do you know who the other people are or were?

A By name on the manifest that I had obtained, and I participated in seeing when they went to the Mexican Customs, identifying as the crew that had arrived, it involved two children and a younger boy I would say in his 20's, and I think a couple of other gentlemen.

Q Now, did you have Mr. Cotroni under your observation at the airport --

MR. PUCCIO: Withdrawn.

Q In addition to these observations at the airportion did you have Mr. Cotroni under observation after you left the airport?

A Yes.

Q Will you tell us what you observed at that time?

A Yes. Mr. Cotroni, accompanied by the other people that he arrived with, were met in the waiting section by two ladies and a gentleman. And they all exited to the parking lot of the Mexico City International Airport. And they got into a 1969 maroon and black Chevrolet bearing Mexican license number BYR 88. And getting into the vehicle they continued on down to the downtown Mexico City area which is known as the La Zona Rossa, which is Umbergo -- that's the name of the street -- and they stopped at the Hotel Presidente. At this place they got out of the vehicle and went into the hotel. That is where I terminated my surveillance.

Q Did you conduct a check at that time or sometime thereafter to determine the registered owner of the vehicle, the license number of which you just mentioned?

A Yes, sir.

Q Who was the vehicle registered to?

A It was registered to the Le Duc Shirt Shop owned by Giuseppe Catania.

MR. IANNUZZI: We have just been given some information. May I have an opportunity to peruse it?

THE COURT: Yes, the jury may be excused.

(The jury thereupon retired from the courtroom.)

(The following occurred in the absence of

the jury.

THE COURT: How long do you want?

MR. IANNUZZI: If your Honor please, amongst all the 3500 material given, this was not given.

THE COURT: How long do you want?

MR. IANNUZZI: IT IS THREE PAGES.

THE COURT: Are you the gentleman who testified in the prior trial?

THE WITNESS: Yes.

THE COURT: You look familiar.

THE CLERK: Three-page report dated January 5, 1971 marked Government's Exhibit 3500-7.

(Report received and marked Government's Exhibit 3500-7.)

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(Continued on next page.)

(The following occurred in the abosence of the Jury.)

MR. KLAR: Your Honor, perhaps the Court can request that Mr. Puccio provide me with all copies of discovery material.

The document presented to Mr. Iannuzzi this afternoon was not made available to me and the copies of the account ledgers also not made available to me.

THE COURT: By available, it doesn't mean that the Government is required to give copies.

When the Government gives copies as a matter of convenience, 3500 doesn't require the Government to do anything except make the items available.

MR. KLAR: I would suggest that they could make a copy available.

MR. PUCCIO: We will try to do that, your Honor.

MR. IANNUZZI: May I see that there are two references that I would ask Mr. Puccio to supply, if possible, that would be one in reference to paragraph 6, a reference to telephone calls made.

THE COURT: Excuse me.

All right, what you were saying --

MR. IANNUZZI: That paragraph 6 of Government's Exhibit 3500-7 refers to the toll calls made from Cotroni's room in the hotel and the numbers called will be obtained and a report of the subsequent memorandum, I would like to have that memorandum if it's available.

MR. PUCCIO: My recollection is that I tried to get those toll calls but we don't have them. I will check again. If we have them, I will make them available.

MR. IANNUZZI: In paragraph 10, it indicates there was a follow-up investigation in Acapulco concerning Mr. Cotroni and a subsequent report was filed.

I would like to have that report if available.

MR. PUCCIO: Well, Agent Sedillo indicates that Agent Kessler who was supposed to write up a follow-up report, may not have written it up.

If we have it, we will give it to the Court.

THE COURT: All right, are we ready now?

MR. PUCCIO: Yes, your Honor.

THE COURT: All right, seat the Jury.

(Jury present.)

MR. IANNUZZI: May I proceed, sir?

THE COURT: Yes, you may.

MR. IANNUZZI: Thank you, sir.

CROSS-EXAMINATION

BY MR. IANNUZZI (Cont'd):

Q Mr. Sedillo, you indicate that on December 19th you were at the airport and saw an airplane come in; is that correct?

A That's correct.

Q It would be specifically Flight 504 of Canadian Pacific?

A That's correct.

Q And you observed at that time Mr. Frank Cotroni?

A That's correct.

Q Debark from the airplane?

A That's correct.

Q And I believe you indicated you saw two children?

A That's right.

Q And other men?

A That's correct, sir.

Q And did you ascertain in fact that these were Mr. Cotroni's children?

A I based that as they came in and checked in to Immigration with the same as Cotroni and I assume that. I don't know whether or not they are his children or not.

Q Did it also become part of your knowledge that Mr. Cotroni's wife also arrived in Mexico City but by automobile?

A I don't know that.

Q Did you subsequently see Mrs. Cotroni?

A I really can't tell. There were some people there that I assume were -- was his wife. I don't know that.

Q All right. Very well.

In any event, you saw Mr. Cotroni leave the airport and go to the El Presidente Hotel; is that correct?

A That's correct.

Q And would it be correct that you saw Mr. Cotroni leave Mexico City again on December 31st?

A No, sir.

Q You did not see that?

A No, sir.

Q Would it be something that you became aware of?

A Information that was given to me, sir.

Q That he left December 31st?

A That's correct.

Q To go back to Montreal?

A That's correct, sir.

Q Did you ascertain what flight he left on, on

December 31st?

A I am sure I did, sir.

Q Do you know what it was -- well, was it Flight 521?

A I don't recall, sir.

Q Do you have any idea what time it was that it left Mexico City?

A No, sir.

Q Well, may I ask you to look at the report, 3500-7 and ask you if the paragraph 8 would refresh your recollection as to the flight number and the date that Mr. Cotroni left Mexico City?

A Yes, sir. But as it states, this information was given to me by the Mexican policy. I couldn't verify it.

Q No, I understand that.

In any event, you determined that, like Flight 521 on December 31st, and you included that in your report; is that correct?

A That's correct.

Q And during the period of time between December 19th and December 31, 1970 -- I'm talking about 1970; is that correct?

A Yes.

Q Between December 19th and December 30th or 31st,

did you see Mr. Cotroni in Mexico City?

A No, sir.

Q Did you ever see Mr. Cotroni in the presence of a person named Catania?

A No, sir.

Q Did you ever see Mr. Cotroni -- withdrawn.

Did you ever overhear Mr. Cotroni speaking with a person named Catania and discuss narcotics?

A No, sir.

Q Would it be fair to state that your information concerning Mr. Cotroni and anything he may have said or done with Mr. Catania is non-existent?

MR. PUCCIO: I object.

THE COURT: May I have the question?

(Question read.)

MR. IANNUZZI: May I rephrase the question, your Honor?

THE COURT: Rephrase it.

Q Would it be fair to say that you have no direct information, no direct knowledge of any transaction or even meeting between Mr. Catania and Mr. Cotroni?

A That's correct, sir.

Q By the way, sir, what is your native country?

A United States.

Q Do you speak Spanish?

A Yes, sir.

Q Do you speak Spanish to the extent you could have a conversation with someone?

A Yes, sir.

Q Do you speak Spanish to the extent you could have a conversation with a person named Catania?

A Yes, sir.

Q And there were times that you had meetings with Catania, and did you speak Spanish to him?

A Yes, sir.

Q Of course, sir -- well, let me ask this.

When you saw Mr. Cotroni get off the airplane on December 19th, did he have some baggage?

A Well --

Q If you recall, of course.

A To the best of my recollection, they did, sir.

Q And do you know if he had a lot of baggage or an ordinary amount of baggage considering someone going on vacation?

A As a matter of fact, there was quite a bit of baggage, what I considered quite a bit of baggage.

Q Was it checked in with Customs, do you know?

A I don't know. All the time I saw the baggage

was when it was going into the lobby airport area.

Q Would it be fair to state that you don't have any information concerning whether Mr. Cotroni brought in some shirting material?

A No, sir.

Q That would be fair to say?

A Yes.

Q In any event, sir, you say that you have been with the -- as a special agent with the United States Government for how long, sir?

A Approximately seven years.

Q And as part of your capacity with the United States Government is to be an investigator?

A That's correct.

Q And as a matter of fact, you received training?

A Yes, sir.

Q You received training to the extent that when you investigate to obtain evidence, if possible?

A That's correct.

Q And to obtain evidence, if possible, toward the end of having evidence that might be used in Court?

A That's correct, sir.

Q And you have been trained to preserve evidence in such a fashion that would be acceptable in Court?

A That's correct.

Q And as part of your obligation, you have to file reports?

A That's correct.

Q You do follow this procedure and do follow reports?

A That's correct.

Q I am going to ask you if you will be kind enough to look at Government's Exhibit 3500-2 and determine if in fact that is a report that you filed in connection with your official duties on behalf of the United States Government.

A That's correct, sir.

Q It is?

A That's correct.

Q And does your signature appear thereon?

A Well, a photostatic copy.

Q Is it a photostatic of your signature?

A Yes.

Q After the report was filed, sir -- may I see that?

A Certainly.

Q After the report was filed. was it also counter-signed by your regional director?

A That's correct.

Q File with, in connection with an investigation toward the end of possibly debriefing a person about information?

A That's correct.

Q And the information, sir, that's contained in this report -- I will let you again look at it, if you will, and you can keep it there with you -- is the evidence -- withdrawn.

Are the statements contained in that document statements that you took from one Pino Catania or Guiseppe Catania?

A That's correct.

Q Were they taken to the best of your ability?

A Yes, sir.

Q Were they reported as accurately as you remember?

A Yes.

Q Are the things stated there in that you recollect that this person stated to you?

A That's correct.

Q Did you in any fashion attempt to change his meaning?

A No, sir.

Q Did you in any fashion attempt to change

anything that he said to read something other than what he said?

A No, sir.

Q And, sir, did you have any difficulty whatever in understanding and speaking to Mr. Catania without an interpreter, sir?

A We are going into areas, to answer your question, there is a bit of terminology that I might use and he might use so other terminology and I wouldn't quote him exactly.

Q For instance, if he might say a person or a guy, you might say an informant or a suspect or something to that effect; would that be correct?

A No, sir.

Q He might use some other language, however, and you, if you had any difficulty in understanding would you speak to him further until you believed that you understood him complete?

A That's correct.

Q Whatever you put down was after you made a determination that you understood what he said?

A That's correct.

Q You had certain experience dealing with and taking information from people who on occasion you had

difficulty understanding?

A On occasions, yes, sir.

Q However, taking all of this into consideration when you made this report, is it a true and accurate report of what Mr. Catania said to you?

A To the best of my recollection, yes, sir.

Q Of course, this report was made very shortly after he told you these things?

A That's correct, sir.

MR. IANNUZZI: I have no further questions, your Honor.

MR. KLAR: I have no questions, your Honor.

MR. PUCCIO: Your Honor, I have a few questions on redirect.

THE COURT: Proceed.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Let me direct your attention again, Mr. Sedillo, to Government's Exhibit 3500-2.

A Yes, sir.

Q As you have already testified, that's a report of your interview with Mr. Catania on a certain date; is that correct?

A That's correct.

Q Is the language that is used in that report, your language or Mr. Catania's language?

A It's really my language.

Q For instance, you use the words "important violator" in that report.

A That's correct.

Q That's a law enforcement term, is it not?

A that's correct.

Q Is that something -- is that a term that Catania used or is that your own terminology?

A That is my own terminology.

Q And this report was written subsequent to your interview with Mr. Catania; is that correct?

A That's correct.

Q And did you include in that report word for word what Mr. Catania said or his the report a summary of what he said?

A A summary.

Q And did you write down in that report aevery-thing that Mr. Catania said or did you just write down in the report what you thought was important for your purposes?

A That's correct.

Q Which is it?

A I just wrote what I thought was important, sir.

Q Now, did you experience any difficulty at all in understanding Mr. Catania?

A Well, not really,except that terminology, Spanish language is different than in Mexico or South America and when we get into that area, we correct out situation and make sure what he was trying to say and what I was saying, that we were in the same frequency.

Q Did you ever find it necessary to use the assistance of an interpreter in speaking to Mr. Catania?

A No.

MR. PUCCIO: I have no further questions.

MR. IANNUZZI: May I have one or two, sir?

MR. PUCCIO: I'm sorry, I have one other question.

BY MR. PUCCIO:

Q How long is that report, Mr. Sedillo?

A It consists of 17 paragraphs.

Q Well, how many typewritten pages are contained in the report?

A Eight.

Q Eight typewritten pages?

A Yes.

Q Do all of those typewritten pages pertain to your interview with Mr. Catania?

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A That's correct.

MR. PUCCIO: No further questions.

RECROSS-EXAMINATION

BY MR. IANNUZZI:

Q Now, Mr. Sedillo, did you, in addition to conversations, have documents that you showed Mr. Catania?

A Yes, sir.

Q And did you in fact show him some documents and account books of a person named Asaf y Bala?

A That's correct, sir.

Q And after looking at those documents, was it your impression that there were narcotic transactions recorded in those books?

A I couldn't really establish that, sir.

Q You couldn't say yes and you couldn't say no?

A No.

Q It might be?

A It might be.

Q As a matter of fact, there were various entries of money and so forth about which you asked Mr. Catania?

A That's correct.

Q Was it a fact that -- I will withdraw that.

Q Now, you indicate that the word "important violator" was your word?

A That's correct, sir.

Q However, in putting important violator, you didn't make that fact up, did you?

A No.

Q So that when you put important violator -- well, let me rephrase that.

You said that when you had some difficulty with, sat, the Spanish -- Mexican and different accents, is it not, different accents, the same language and different idioms?

A That's correct.

Q When you had a difficulty with Catania, you made every effort to get on the same frequency with him; that's the word you used?

A That's correct.

Q So that when you were on the same frequency with him, it was your effort to in fact get every essence of the words and language that he was using?

A That's correct.

Q And when you put in important violator, although those were your words, basically what he said to you was that this fellow Buchetta whom he knew a long time ago who was a nobody became a big violator, meant he was a big transactor of narcotics?

A Right.

Q Although he didn't use those words that's the essence of what he said to you?

A He used those words.

Q So important violator were his words?

A Not violator, but in Spanish it would mean the same thing.

Q So that he said it in Spanish and this is exactly what he said?

A He didn't say violator. He said international trafficker.

Q Trafficker.

In other words, he was somebody dealing in a big way in narcotics?

A Right.

Q That's the essence of what he said, violator or trafficker?

A That's correct.

Q He also stated to you that Martinez, a person named Martinez, was one of Asaf's important heroin couriers, did he tell you that?

A Well --

Q May I show you this?

A Yes.

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Q I think it's already underlined.

A That's correct, sir.

Q Not only did he tell you in that report, but he also identified this same fellow in another report which is classified 3500-6; did he not?

A That's correct, sir.

Q And so, not only did he tell you -- not only did you report that as having been told to you once, you reported that that was told to you on more than one occasion?

A That's correct, sir.

Q And by the way, sir, although these are eight pages of documents, this isn't all that he said to you, is it?

A That's correct.

Q But it is the essence of what he said to you?

A That's correct.

Q And he said these things to you?

A That's correct.

Q And you understood everything that he said before you put it down here; is that right?

A That's correct.

MR. IANNUZZI: Your witness.

MR. PUCCIO: No questions.

MR. KLAR: No questions.

THE COURT: The Jury is excused for 10 minutes. If you want to go for coffee, you may do that.

(Recess taken.)

THE COURT: Are we ready to proceed on the case on trial?

MR. PUCCIO: I would like to call Mr. Sedillo back for a few questions.

THE COURT: All right, ask him to come in. Seat the jury.

(The jury then took its place in the jury box.)

THE COURT: All right, Mr. Sedillo recalled.

MR. PUCCIO: Yes, your Honor.

A R T H U R M. S E D I L L O, having been previously sworn, continued to testify as follows:

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Sedillo, you indicated in response to a question by Mr. Iannuzzi that you had received information that Mr. Cotroni had left Mexico City on December 31, 1970, by airplane; is that correct?

A That is right, sir.

Q Now did you independently check that, check on that information?

A That is correct, sir.

Q How did you go about checking it?

A I went to the Mexican Federal Judicial Police office at the Mexico City International Airport and was

shown the plane manifest list of the plane concerning --

Q And did the manifest list indicate that a passenger named Frank Cotroni had left Mexico City on December 31st by airplane?

A No, sir.

MR. IANNUZZI: If your Honor pleases, may we have a sidebar?

THE COURT: The jury may be excused.

(The jury left the courtroom.)

THE COURT: What is the purpose of this?

MR. PUCCIO: Well, your Honor, Mr. Iannuzzi was given a copy of Agent Sedillo's report and the report reflects that Mr. Sedillo received information from the Commandatator that Mr. Cotroni had left Mexico on December 31st.

Now that was not brought out on direct but there was a question on cross-examination according to the report, and it goes further, that Mr. Sedillo checked the manifest and he didn't find the name Frank Cotroni but he found the name Frankie Santos, which is known to be or is supposed to be an alias of Mr. Cotroni.

So I believe that I have the opportunity now to inquire into the specifics of Mr. Sedillo's

examination of that manifest and his following up of that information.

Now I didn't bring it out, counsel brought it out on cross-examination.

THE COURT: What is the significance of using an alias?

MR. PUCCIO: The narcotic conspiracy, according to the indictment, began on December 1, 1970 and this is December 31, 1970, within the period and after Cotroni had been offered the narcotics by Catania.

THE COURT: What proof do you have that the defendant used the name Santos?

MR. PUCCIO: Well, I don't.

THE COURT: I didn't hear that he left under an assumed name.

MR. PUCCIO: I want to show either he left under an assumed name or as far as this witness knows, well, this witness was asked the question, and I can get the reporter to read it back, something to the effect, Did you determine that Mr. Cotroni left -- well, he was asked to testify whether he determined that fact, and I am entitled to inquire how it was determined.

THE COURT: That sounds fair enough.

What do you say about that?

MR. PUCCIO: Let us have the question read back; maybe that will be easier.

(At this point the reporter, Mr. Karr, indicated that Mr. Miele had reported the cross-examination by Mr. Iannuzzi of the witness Arthur M. Sedillo.)

MR. IANNUZZI: We don't have it here, your Honor, but if it were read --

THE COURT: I recall you asked even about the flight number.

MR. IANNUZZI: And I asked him whether Mr. Cotroni left and I was interested whether he knew if he left and he said he did.

THE COURT: You asked him more than that.

MR. IANNUZZI: No.

MR. PUCCIO: Also it was brought out that Mr. Sedillo didn't see Mr. Cotroni leave but he received information and he determined --

MR. IANNUZZI: That he left.

MR. PUCCIO: On the basis of that information.

THE COURT: All right, we will wait, and let us get it.

(At this point Mr. Karr, the reporter, notified his office that Mr. Miele was wanted in Judge Mishler's courtroom.)

THE COURT: What other proof do you have that at the time Cotroni used the name of Santos?

MR. PUCCIO: May I have a minute, your Honor?

THE COURT: We still have not determined whether we are going to turn the newspapers over to the jury.

MR. IANNUZZI: No, and maybe we can look through them meanwhile.

(Mr. Michael J. Miele then entered the courtroom.)

THE COURT: Will you read the question that sounded something like, Did you determine that he left Mexico City although you didn't see him leave Mexico City?

MR. MIELE: Your Honor, I'm sorry, I brought up the wrong notes; I brought up the morning notes instead of the afternoon.

THE COURT: Can you just call up and tell us what it is?

MR. MIELE: I can call here and I can read them to Mr. Karr and he can read them back to you.

(Mr. Miele then left the courtroom.)

THE COURT: If I allow the question, I think it is important that you ask questions that will advise the jury as to what a manifest is.

MR. PUCCIO: Yes, I will do that.

Then I'll just go on and ask --

MR. IANNUZZI: No, I think that creates an inference which is unnecessary and prejudicial.

THE COURT: Then we will wait and see if Mr. Iannuzzi asked the question about:

Did you get information that he left, and I will allow you to ask --

(At this point the phone in the courtroom rang and Mr. Karr, the reporter, repeated in the courtroom the cross-examination of Mr. Sedillo by Mr. Iannuzzi concerning that Mr. Sedillo should look at the report, and the questions following.)

THE COURT: All right.

Now the only basis for the question is the question by Mr. Iannuzzi where he asked Mr. Sedillo to look at the report, and then the question is:

So you determine that he left Mexico City on December 31st on flight 521.

Now the question you want to ask is with

reference that you want to show his name is not on the passenger list. But how does that explain how he knows?

MR. PUCCIO: But there is another name and that --

THE COURT: I don't think so.

I will sustain the objection. I think it can only be interpreted as being that he used the name Frank Santos, and unless you have other proof to tie this defendant up with Frank Santos and having Frank Santos on the passenger list and not having Frank Cotroni, then I don't see how that proves it.

MR. PUCCIO: We don't have other proof, but we have a good faith belief based upon what the Canadian police officers tell us.

THE COURT: I'm sure you do, but that is not enough.

MR. PUCCIO: All right.

THE COURT: It probably was him, that is probably if his name was Santos, but that is not to say that it is he.

Now seat the jury.

(At 3:55 p.m. the jury took its place in the jury box.)

THE COURT: All right, you may proceed, Mr. Puccio.

MR. PUCCIO: I have nothing else, sir.

THE COURT: Anything further, Mr. Iannuzzi, any more questions?

MR. IANNUZZI: May I just have one more moment?

THE COURT: Surely.

(Mr. Iannuzzi then conferred with defense counsel.)

MR. IANNUZZI: May I have that report, please?

MR. PUCCIO: It is right there (indicating).

RECROSS EXAMINATION

BY MR. IANNUZZI:

Q Mr. Sedillo, when you went to determine if in fact Mr. Cotroni left Acapulco -- withdrawn -- left Mexico City on December 31st, you indicated that you had to check this out because in fact you didn't actually see him on the plane; correct?

A That is correct, sir.

Q And so you went to the airport and you determined from the manifest the names of the persons on the manifest; correct?

A Yes, sir.

Q And did you in addition ascertain from some official there whether or not they in fact saw Mr. Cotroni

get on the plane?

A Yes.

Q And of course they said he did?

A That is what they told me.

Q By the way, who made up that manifest?

A I would not know.

Q Someone in Mexico City, I assume?

A That is correct.

Q Someone working for the airline in Mexico City?

A That is correct.

THE COURT: A manifest is a passenger list?

THE WITNESS: Yes, your Honor.

MR. IANNUZZI: Yes, sir.

Q That is a list of the people on the plane; is that right?

A Yes.

Q And did you determine that the name Frank Cotroni was not on the list?

A That is correct.

Q Did you however determine that a name Frank Santos was on the list?

A That is correct.

Q And did you also determine in your investiga-

tion that Mr. Cotroni's name is Frank Santos Cotroni?

A That is correct.

Q And is it not a Mexican custom that a person carries both his mother's and father's name?

A Together at the time, yes, sir.

Q Yes. However, in ordinary reference to a person you refer -- withd-rawn.

And the first name, say for instance it is Vasquez Hernandez, then that would mean that the first name, Vasquez, would be the name of the father, and Hernandez would be the name of the mother; right?

A That is correct.

Q And that is the custom?

A Yes, sir.

Q However, when you refer to that person ordinarily, without a great deal of formality, you would refer to the name of the man as Mr. Vasquez?

A Correct.

Q So in other words the custom is that you refer to the person by the first name and the last name or the first of the last name; is that correct?

A That is correct.

Q And so a Mexican who would meet Mr. Frank Santos Cotroni would call him Mr. Frank Santos?

A Correct, probably.

MR. IANNUZZI: No further questions.

MR. PUCCIO: No questions.

THE COURT: Anything further?

MR. IANNUZZI: Withdrawn.

BY MR. IANNUZZI:

Q And if a Mexican or a Spanish person were to write somebody's name down and just have a memorandum of who it was and saw his name as Frank Santos Cotroni, he would write Frank Santos?

A Probably, sir.

MR. IANNUZZI: Your witness.

THE COURT: Anything further?

MR. PUCCIO: Nothing, if your Honor pleases.

THE COURT: You may step down. Thank you.

(The witness was excused.)

THE COURT: Next witness.

MR. PUCCIO: I will call Mr. Barnard Couture.

B A R N A R D C O U T U R E, called as a witness on behalf of the Government, having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Couture, by whom are you presently employed?

A I am employed presently by the Quebec Police Force of Montreal.

Q What is your official title with the Quebec Police Force presently?

A I am a corporal.

Q For how long a period of time have you been so employed?

A I have been employed by the Quebec Police Force since 1964.

Q What are your present duties with the Quebec Police Force?

A Presently I work for the Quebec Crime Probe Commission in Montreal and I work there as an investigator.

Q And for how long a period of time have you been working for the Quebec Crime Probe Commission?

A Since June of 1972.

Q And prior to that --

MR. IANNUZZI: May I just interrupt and ask if your Honor would be kind enough to ask the witness to speak a little more loudly.

THE COURT: Try to speak a little more loudly.

THE WITNESS: Yes, your Honor.

Q Prior to your assignment with the Quebec Crime Probe Commission, what were your duties?

A I was assigned between 1965 and 1972 by Deputy Director H. Patenaude from the Quebec Police Force to analyze all information that came through electronic surveillance, and by electronic surveillance I mean room bugs, wiretaps or any electronic means.

Q Now, during the period of time that you had this assignment pertaining to analyzing information obtained through electronic surveillance, you had occasion, did you not, to work on various wiretapping projects; is that correct?

A Yes, sir.

Q And included in the wiretapping projects that you worked on were the so-called Vegas projects; is that correct?

A Yes, sir.

Q The Vegas projects were denominated Vegas 1B, Vegas PT, Vegas 3, 5, 7, 8, 9, 11 and 12; is that correct?

A That is correct, sir.

Q And these code numbers corresponded to various wiretap installations; is that correct?

A Yes, sir.

Q By the way, Mr. Couture, did you work with any other members of the Quebec Police Force on these wiretapping projects?

A Yes, sir, I did.

Q Whom did you work with?

A I worked with Mr. Lavallee and Mr. Oaube. I was assigned to analyze the information upon the Vegas projects with Mr. Oaube.

Q Now do you know what Mr. Lavallee's role was in the Vegas projects?

A Mr. Lavallee was the one that took care about the hookup on the line. I mean he was to put the wires to the line.

Q You are saying that he actually effected the installation of the wiretaps?

A That is correct.

Q And would you give the Judge and the ladies and gentlemen of the jury a descriptionof the equipment that was used or the apparatus that was used in connection with these wiretaps?

A Yes, sir.

THE WITNESS: With your permission, may I use my notes, please?

THE COURT: Surely.

A On Vegas 1-B and Vegas 1-PT, which is the Victoria Sporting Club located in Lonjueuil, Quebec, which was the Victoria Sporting Club, we had down there two Roberts

recorders, there were two lines, two lines specifically; one line was 514-677-9272 -- that was a commercial line -- and there was also a public line which was 514-677-0378 --

Q These are two telephone lines located at the Victoria Sporting Club; is that correct?

A Yes, sir. And on our end we had to rent an apartment to get those lines into the apartment, so that we could intercept the calls, and through the lines were installed two automatic starters, lines to a Roberts recorder for each line, so it makes two automatic starters and two Roberts recorders.

Q Now, the automatic starters in the Roberts reporters were hooked to the --

A The Victoria Sporting Club lines.

Q -- the Victoria Sporting Club lines that you have just described?

A Yes, sir.

Q Do you know how they were hooked?

A Yes, sir. The line was hooked up into the starter -- there are two wires, wires for each line, you must have two wires, which they called Tip and Ringside, so we put the two wires into the starter and we connected the starter to the recorder and as soon as somebody hooked off the line from the Victoria Sporting Club there is a

voltage change done into the starter which activates the recorder.

Q So you had to have a telephone line for two telephone lines that you have just noted connected to an automatic starter and in turn connected to a tape recorder?

A Yes, sir.

Q And the difference in the voltage on the line would cause the automatic starter to start the tape recorder; is that correct?

A Yes, sir, as soon as somebody takes the line --

Q As soon as the receiver was picked up the tape recorder would start?

A Yes, sir.

4/3 Q And you had been working with this equipment prior to 1970; is that correct?

A Yes, sir.

Q And would I be correct in stating that the Victoria Sporting Club wiretappings were installed on July 7, 1970?

A Yes, sir.

Q So you had some years experience before this particular installation?

A Since 1965, sir.

Q Now, where were the tape recorders that were

used in connection with these first two wiretappings located?

A In an apartment that we rented.

Q And was that apartment anywhere in the vicinity of the Victoria Sporting Club?

A Yes, sir, a few blocks from the Victoria Sporting Club.

Q Now, you also are familiar with the project denominated Vegas 3, which was a wiretap installed on a telephone located at the premises or the residence of Mr. Frank Dasti; is that correct?

A Yes, sir.

Q And are you familiar with Vegas 5, which was a wiretap installed at the residence of or on a telephone located at the residence of Mr. Controni?

A Yes, sir.

Q And are you familiar with Vegas 7 and 8 wiretappings installed on telephones located at the premises of the Salon Pierre?

A Yes, sir.

Q Q And are you also familiar with Vegas 9which was a wiretap installed on a telephone located at the home of one Santo Mendolia, and Vegas 11, another wiretap on the telephone at the home of Mr. Cotroni?

A Yes, sir.

Q And finally Vegas 12 which was a wiretap installed on the telephone located at Mr. Orsini's residence?

A Yes, sir.

Q Now, did you personally work on each one of these wiretap operations?

A Yes, sir, I was the one who was attached to those projects, I was the only one attached to them the first time. You see, originally the Vegas project began I -- when the Vegas project began I was assigned by Mr. Patenaude to be the only one, but after a certain time because of the expansion of the project Mr. Patenaude assigned Corporal Oaube -- this was around the middle of November '70 or the beginning of December '70 -- and at that time Mr. Oaube was told not to listen to any tape without me being there.

Q All right. Now, so far as the Vegas 3, 5 -- let me just direct your attention to Vegas 3, 5, 7, 8, 9, 11 and 12, were they hooked up in the same way, were wiretapping installations placed in the same way as Vegas 1-B and Vegas PT, which were located at the Victoria Sporting Club?

A No, sir.

Q Tell us as best you remember how the other seven were hooked up.

A Those last seven projects were installed into

the Quebec Police Force headquarters, we didn't have to rent a place.

Let us say we were recording all calls inside the Quebec Police Force headquarters.

Q So as far as the seven additional wiretaps are concerned, the tape recorders themselves were located in the Quebec Police headquarters?

A Yes, sir.

Q And you were able to record conversations over these telephone lines through an electronic-mechanical hookup, let us say?

A Yes, sir.

Q Without going into the details of it?

A Yes, sir.

Q But there was a mechanical arrangement which enabled you than rather to rent an apartment and place a tape recorder in this apartment nearby, such as the ones done in Vegas 1-B and Vegas PT; is that correct, sir?

A That is correct, sir.

Q Now, what type of recording equipment was used in connection with Vegas 3, 5, 7, 8, 9, 11 and 12?

A We used a Uher Royale de luxe machine and --

Q Is that a tape recording machine?

A Yes, sir.

Q Is it similar to this machine right here? (Indicating).

A Exactly, sir.

Q This (indicating) is a Uher deluxe that I am pointing to?

A Yes, sir.

Q And did you also in addition use automatic starters?

A Yes, sir -- it is not exactly an automatic starter to this machine, we attach what we call an Agustumat, that is a voice operating relay, and it is connected to this machine and it is worked with the sound -- well, let us say if I left up my line and as I talk, as soon as there is a sound the machine goes on.

Q It is voice activated?

A Yes, sir.

Q Now, let us turn, Mr. Couture, to your role during the Vegas operation. First, generally, tell us what your routine would be while these wire tappings were in operation.

A My first routine was to first of all take the machine and install it for the project, then it was to --

Q To hook it up to the line?

A Right.

Then I had to put a tape on the machine and after a while I had to wait for the information to come in.

Then I took off the tape, put another one and listened to the tape that I took off the machine.

Q Now therefore -- these wire tapping installations of course were made over a period of time?

A Yes, sir.

Q But at one time there was approximately nine --

A Yes, sir.

Q (Cont'd) -- working at the same time; is that correct?

A Yes, sir.

Q Now, you didn't listen to these recordings as they were being made onall nine of these tape recorders, did you?

A No, sir, because I was all alone at first and there was the projects; it was impossible for me to listen to each call, so we had to register the call and as soon as I had time I took off the tape on the project and listened to it and then took off a log, logged the information that we had, then went to another project, took the tape, logged in the information, and so on.

Q So -- I am sorry, continue -- that was the way it was done?

A Yes, sir.

Q So when a tape was completed -- in other words you would take that tape off and put on a new tape on the tape recorder; is that correct?

A Yes, sir.

Q And then you would listen to each tape that had been made --

A Yes, sir.

Q -- on each machine?

A Yes, sir.

Q Did you listen to the entire tape?

A The entire tape, sir?

Q Did you listen to every tape, let us call it every original tape --

A Each original tape --

Q -- made on every machine used in the Vegas projects?

A Yes, sir.

Q Did you personally listen?

A Yes, sir.

Q Now, what would you do after you had listened to a given tape?

A I was to analyze the information, I was to log in the tape.

Q Did you in fact do that?

A Yes, sir. As a matter of fact we considered that there was three types of phone calls, one which was not pertinent at all, one that had some pertinency, and the one that was very important because all the information that we got from a tape was not logged in.

I will do some examples because I know my English could be very poor.

So as an example let us say MR. Dasti calls a restaurant on -- he calls somebody and he says, I am going out to eat at such a place tonight.

Now, this kind of information won't be logged because --

Q When you say "logged," what do you mean specifically?

A It won't be typed, it won't be typed, I won't put the information on record.

Say if he calls Chinese, for Chinese food, he calls the restaurant, he says, I want an order of such and such a thing. This won't be logged.

Q Now, is a log essentially a typewritten summary of a conversation?

A Yes, sir.

Q Or an observation made of a conversation?

A Yes, sir.

Q And did you personally type up these logs?

A Yes, sir.

Q Yourself?

A Yes, sir, with Mr. Oaube when he was with me.

Q It was either you or Mr. Oaube under your direction?

A That is it, sir.

Q Now, you said that certain calls weren't even recorded?

A No, sir.

Q In other words, a log wasn't made if someone was ordering Chinese food, you didn't even bother indicating that on your summary that a call was made?

A Yes, sir, because we had so much projects it wasn't possible for us to type up all the information; this was useless information.

Q All right. Before I interrupted you you indiated there were three categories of conversation, you have given us the first, which is the unimportant, which is not recorded -- which is recorded but there is no log made.

A Yes, sir. The second category could be of some importance; an example, Mr. Dasti called in to Mr. Cotroni and he says, I am going to meet you at such a time

at such a place. This would be logged in but we wouldn't do a master tape of it.

Q All right. We haven't got to the master tape yet, but you would write in a summary of certain conversations?

A Yes, sir.

Q So you would type up a little report of the incident of that conversation, what you thought there was that was important of that conversation?

A Yes, sir, a summary of that conversation.

(Continued on next page.)

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Q Now, what is the third category of conversation?

A It is what we feel a very important conversation, one which was the best for us. Then we made a summary of -- a summary or even a word by word.

Q Now, are you talking about a word by word transcript?

A Yes.

Q Now, as far as the actual tapes themselves were concerned, did you retain every tape that was made in every one of these projects?

A No, it was impossible, sir.

MR. IANNUZZI: Objection if your Honor please. That is not responsive.

THE COURT: Strike it out as not responsive.

Q The answer is you didn't retain every tape that was made? Is that correct?

A No sir.

Q However, you did retain certain tapes? Is that correct?

A Yes sir, I did retain the conversation, not the original tape.

Q I am sorry. Can you tell us what you did with respect to certain conversations that were tape recorded on the original tapes?

A Yes sir. I said when we judged that there was

an important call made I took the original tape and transferred the -- let's say on the original tape there was 15 calls --

THE COURT: Incidentally, when this witness says that he judged that they were important conversations it should have no effect on the jury. This was a selective process. And just because this witness says I think it is important, there is no reason for you to accept that. You are the ones who will ultimately decide whether it is, or whether it is material or relevant.

MR. IANNUZZI: If your Honor please, may I also request that the witness testify in the first person as to what he did as opposed to "we"?

THE COURT: What you did. When you say "we" it might mean somebody else. We want to know what you did. You can only testify to what you did.

THE WITNESS: Yes, your Honor.

THE COURT: What you heard.

THE WITNESS: Yes, your Honor.

When I judged there was an important call on the original tape I was to take a brand new tape that we called a master tape and register the good conversation to the master tape.

I mean by that, let's say, if I have the original tape and there is 20 calls in it and there is only one which I judge very important -- I didn't keep them because we would have kept millions of them -- so I kept only -- I transferred the conversation that was on the original tape to another tape.

THE COURT: You took it off the original tape?

THE WITNESS: That is it, sir.

Q How did you do that, Mr. Couture, electronically? Did you tape record in fact certain conversations?

A Yes sir. I take another machine. I have two machines. It takes two machines.

Q So that by using two tape recorders you would preserve on another tape, a master tape, certain conversations that were on the original tape?

A That is correct, sir.

Q Now, you were asked to bring certain master tapes to Court today?

A Yes.

THE COURT: Excuse me. And the original tapes, did you reuse them for other conversations?

THE WITNESS: Yes.

THE COURT: So that the conversation that was on there was erased? Is that right?

THE WITNESS: We erase the conversation and then we reuse it.

THE COURT: And those conversations on the original tapes are no longer available?

THE WITNESS: No sir.

Q By you reusing a tape you in effect erased what was on there originally? Is that correct?

A Yes.

Q Were you asked to bring certain master tapes with you today? Is that correct?

A Yes sir.

Q Do you have them with you?

A Yes.

MR. PUCCIO: Can you produce them, please?

Your Honor, may I have these marked?

THE COURT: Yes, let them be marked.

Are they in the right order?

MR. PUCCIO: Mark them this way (addressing clerk).

THE CLERK: Three tapes marked Government's Exhibits 36, 37 and 38 for identification.

(Articles referred to, being three tapes, were received and marked Government's Exhibits 36, 37, 38 respectively for identification.)

Q Now, I have placed in front of you, Mr. Couture, Government's Exhibits 36, 37 and 38.

Would you please identify each one of these exhibits for us?

A Yes sir. Exhibit 36 is of the master tape of Vegas project 1B and PT, which is the Victoria Sporting Club. All pertinent -- all important calls that were intercepted from the Victoria Sporting Club are on this. And by all I mean not only for this case.

Q All right. In any event you selected certain calls from the original tape and you recorded them onto that tape?

A Yes sir.

Q Now, what is the next exhibit?

THE COURT: May I know about how many conversations are on Exhibit 36? Well, pertaining to this case, Mr. Couture, how many conversations are contained within Exhibit 36?

MR. IANNUZZI: May we have a moment please with you, Judge, at the side bar?

THE COURT: The jury may be excused.

MR. IANNUZZI: Thank you very much. I am sorry.

(The jury thereupon retired from the courtroom.)

(The following occurred in the absence of the

jury.)

MR. IANNUZZI: May I just suggest, sir, that for purposes of our trial it is not necessary to refer to other cases or tapes that have to do with other cases. Although they are there we do not have to refer to them. He knows what he is talking about. I think it is an unfortunate reference and might becloud the record.

THE COURT: Are you talking about my question or Mr. Puccio's?

MR. IANNUZZI: Well, I was specifically referring to Mr. Puccio picking up the language of the witness who said there are important conversations not only about this case, as if to say there are some calls about other cases. I don't think we should have testimony of other cases.

THE COURT: Try not to --

MR. PUCCIO: I am leading the witness, your Honor, just so we stay away from the other --

THE COURT: Don't talk about any other case. My question was asked to show that many conversations are not on the tape. I wanted the witness to approximate how many total conversations.

MR. IANNUZZI: I have no objection to that,

Judge.

THE COURT: Out of the number that he retained out of all the conversations. I would rather he didn't say important conversations.

MR. PUCCIO: Well, he can refer to conversations selected by him.

THE COURT: The conversations that he discarded or he took no note of, that's a little different. I do not want his evaluation as to whether they are important or material.

MR. IANNUZZI: Would your Honor be kind enough, although I know the witness is still here, to direct your remark to him that he shouldn't refer to "important" and not refer to "other cases."

THE COURT: You understand the mere fact you think it is important is not testimony. The jury decides whether it is important or whether it is material. So when you refer to these conversations just talk about these conversations as Vegas or PT, or the conversation that you retained out of the phones at the Victoria Sporting Club. Any of that.

MR. IANNUZZI: And not refer to other cases.

THE COURT: And not refer to other cases, yes.

MR. IANNUZZI: Thank you, sir.

(The jury thereupon returned to the courtroom.)

B E R N A R D C O U T U R E , having been previously duly sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. PUCCIO (Continued):

Q Now, Mr. Couture, for the record again, Government's Exhibit 36 pertains to a specific wiretap? Is that correct?

A Yes.

Q Again which wiretap is that?

A The Victoria Sporting Club. The two lines in the Victoria Sporting Club.

Q Oh, on that master tape would be conversations taken really then from two wiretaps?

A That is correct.

Q Vegas 1-B, which was the business telephone of the Victoria Sporting Club, and Vegas PT, which was the pay phone of the Victoria Sporting Club? Is that correct?

A Yes sir.

Q So that tape would include the conversations that were not discarded, in other words, that were retained?

A Yes sir.

Q Taken from the original and recorded onto

5/2 DSS

Exhibit 36, which is a master?

A Yes.

Q Now, identify Exhibit 37 for us, please.

A 37 is Vegas master tape for Vegas 3 project, which is Mr. Dasti's residence.

Q That is a project pertaining to Mr. Dasti's residence?

A That is correct, sir.

Q And contained of course on that tape are conversations that were not discarded but were transferred from the master -- transferred from the original by electronic means to that master; is that correct?

A Yes.

Q What is contained in Exhibit 38?

A Exhibit 38 contains all conversation calls from Vegas 5 and 11, which is Mr. Cotroni's residence.

Q So that tape would include telephone calls from the two phones -- made over the two phones located at Cotroni's residence?

A Yes, sir.

Q And these again are conversations that you retained andhave recorded on to a master tape rather than discard it?

A That's right, yes, sir.

Q Now, Mr. Couture, were you asked to prepare a transcript of certain conversations for this case?

A Yes, sir.

Q You were told -- you were requested by the U.S. Attorney's office to prepare a transcript, is that correct?

A Yes, sir.

Q Did you in fact prepare a transcript of 17 conversations?

A Yes, I did, sir.

MR. PUCCIO: Can I have this marked, please.

Your Honor, doyou mind if we mark this with another number? It has a 3500 number on it. Well, I guess it doesn't matter.

THE COURT: Well, for identification at this point. It doesn't matter.

MR. IANNUZZI: May I have the number?

MR. PUCCIO: It is 3500-3.

Q I show you Government's Exhibit 3500-3. Will you examine that document, please.

(Witness examines document.)

A Yes, sir.

Q Have you examined it, Mr. Couture?

A Yes.

Q Tell us first generally what that is.

A This is the conversations, calls which were intercepted from the Victoria Sporting Club, Mr. Cotroni's residence, the Laurentian Hotel, and Mr. Dasti's residence.

Q By the way, is there a conversation that was intercepted at the Laurentian Hotel included in the exhibits in front of you, the master tape?

A Yes, sir.

Q Which exhibit is that included in?

A It is in Exhibit 38.

Q That would be a tape record --

A Yes. I am sorry; it is 37.

Q 37 would be the tape that contains calls received at Mr. Dasti's residence -- made or received at Mr. Dasti's residence?

A Yes.

Q Now, this book, Exhibit 3500-3, is a collection of 17 transcripts, is it not?

A Yes, sir.

Q And did you personally prepare those transcript or assist in the preparation of those transcripts?

A Yes, sir, I did.

Q And they are transcripts of 17 separate conversations, are they not?

A Yes, sir.

Q Now, are the conversations from which these transcripts are made contained in Government's Exhibits 36, 37 and 38?

A Yes, sir.

Q Now, are those transcripts a word-for-word recitation of each one of these seventeen tape recorded conversations?

A Yes, sir.

Q How do you know that, Mr. Courture?

A Because I did it myself with a few other constables of the Quebec Police Force or the RCM members.

Q When you say you did it yourself with the these other people, what did you in fact do in order to produce or prepare Government's Exhibit 3500-3, that book in front of you?

A I did the word by word of each phone call that were on those exhibits.

Q You said you did the word by word?

A Yes.

Q Does that mean you would listen to the conversations?

A Yes, sir.

Q And write down what was said?

A Yes, sir.

Q Well, did you listen to it and write it down as the voices were speaking, or did you have to stop the tape recorder, write down a few words, start the tape recorder and back up?

A That is it, yes, sir.

Q Now, can you testify --

MR. PUCCIO: Withdrawn.

Q In Government's Exhibit 3500-3, there are conversations -- there are transcripts of conversations which were originally in English; is that correct?

A Yes, sir.

Q And can you testify that a word-for-word transcript of the English conversations appears in that exhibit?

A Yes, sir.

Q And that is based upon your listening to various tape records contained in Government's Exhibits 36, 37 and 38?

A Yes, sir.

Q Now, included in that exhibit are also transcripts of conversations that were in Frerch; is that correct

A Yes, sir.

Q Now, are the transcripts themselves word for

word in French?

A Yes, sir.

Q Was that done by you in the same way that the English transcripts were done?

A Yes, sir.

Q By listening to the tapes and then writing down each word?

A Yes.

Q As you heard it?

A Yes, sir.

Q So I suppose you listened to these tapes many times in order to do that?

A A lot of times.

Q Now also on Government's Exhibit 3500-3 there is contained a translation, is there not?

A Yes, sir.

Q Of the French conversations?

A Yes, sir.

Q And who prepared that translation?

A It was done by staff's Sergeant Jarnaer of the RCMP and myself.

Q You say you participated in producing these translations?

A Yes, sir.

Q You speak French of course?

A Yes.

Q And have you ever in the past listened -- prior to this Vegas project, have you ever listened to tape recorded conversations in French produced as a result of wire taps?

A Yes.

Q Do you have experience in translating French conversations overheard by electronic surveillance?

A Yes.

Q Can you testify that that translation that appears in Government's Exhibit 3500-3 is a word-for-word translation of the French that also appears above it?

A Yes.

Q In that exhibit?

A Yes.

Q Now, can you indicate, Mr. Couture, which conversations, and the conversations I believe are numbered, which conversations are in English and which conversations are in French?

A Number one is in English and it is an English conversation between Paul Oddo and Frank Dasti.

THE COURT: Isn't it obvious from looking at the exhibit that some conversations were in French, and where they were they are translated and all the

others are in English?

MR. PUCCIO: Fine, your Honor.

THE COURT: You concede that, don't you, Mr. Iannuzzi?

MR. IANNUZZI: Certainly, your Honor.

Q Now, was there any conversation, any entire conversation or any part of a conversation in Italian?

A Yes, sir.

Q Now, was that, did that consist of many words or just a few words or what was it?

A It was just a few words.

Q A few words here and there?

A Yes.

Q Do you speak Italian?

A No.

Q So those Italian words were not translated by you; is that correct?

A No.

Q Who were they translated by?

A They were translated by Constable Morro of the RCMP.

THE COURT: Is that Royal Canadian Mounted Police? That is what you call the RCMP; is that right?

THE WITNESS: Yes, sir.

Q Were you present when Mr. Morro translated, listened to and translated those words?

A Yes.

Q Now, let me direct your attention now to the persons who were speakers in the seventten conversations -- withdrawn.

Have you ever heard Mr. Dasti's voice, Mr. Couture?

A Yes.

Q And have you heard Mr. Dasti's voice prior to the Vegas projects?

A Yes, sir.

Q On how many occasions, approximately?

A Numerous occasions, sir.

Q And are you familiar with MR. Dasti's voice?

A Very much.

Q Now, when you listened to these seventeen conversations were there any, was there any voice that you were able to identify as being the voice of Mr. Frank Dasti, the defendant in this case?

A Yes, sir.

Q And whenever Mr. Dasti's voice was identified by you, did you indicate in Government's Exhibit 3500-3, the book that you produced for this trial, did you indicate that?

A Yes, sir, I did.

Q Are you familiar with the defendant Frank Cotroni's voice?

A Yes.

Q And were you familiar with Mr. Cotroni's voice prior to the Vegas project?

A Yes.

Q And in the seventeen conversations, is there a speaker that you identified as Mr. Frank Cotroni?

A Yes.

Q Are you sure that that is Mr. Cotroni?

A No doubt in my mind, sir.

Q And whenever you heard Mr. Cotroni's voice, you so indicated in Government's Exhibit 3500-3; is that correct?

A Yes, sir.

Q So you identified either Dasti or Mr. Cotroni as being the speaker?

A That is correct.

MR. PUCCIO: I would like Mr. Couture to step down for just a minute, and I would like to call Mr. Tobin from the Drug Enforcement Administration.

MR. IANNUZZI: Mr. Tobin is here all the

time. I don't know if it is necessary.

MR. PUCCIO: Just on a few questions of voice identification.

THE COURT: Suppose you go into the corner with Mr. Iannuzzi and Mr. Klar and discuss it.

MR. PUCCIO: All right.

(At this time Mr. Puccio, Mr. Klar and Mr. Iannuzzi conferred out of the hearing of the Court and jury.)

MR. PUCCIO: Your Honor, we can make it easier.

Will you step down, please, Mr. Couture.

I will call Mr. Tobin.

M I C H A E L T O B I N, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Tobin, by whom are you employed?

A Drug Enforcement Administration.

Q For how long have you been so employed?

A Approximately sixteen months.

Q And prior to that what was your occupation?

A An agent with the United States Customs.

Q For how long a period of time?

A Approximately four years.

Q Now, Mr. Tobin, I direct your attention to Government's Exhibit 3500-3. Will you examine that exhibit please.

A Yes.

Q Do you recognize that, Mr. Tobin?

A Yes.

Q Is that a transcript of seventeen conversations?

A Yes, sir.

Q Are you familiar with it?

A Yes, sir.

Q Have you read it?

A Yes, sir.

Q Prior to coming into court today?

A Yes, sir.

Q Now, have you also listened to seventeen tape recorded conversations?

A Yes, sir.

Q That would be the seventeen conversations which is contained in Government's Exhibits 36, 37 and [illegible]?

A That is correct.

Q Now, are you familiar with the voice of Mr. Paul Oddo?

A Yes, sir.

Q And you have had occasion in the past to speak with Mr. Oddo?

A Yes, sir.

Q Are you also familiar with the voice of Mr. Anthony Vannicur?

A Yes, sir.

Q And have you had an opportunity to speak to Mr. Vannicur?

A Yes, sir.

Q In listening to these seventeen conversations --

MR. IANNUZZI: I don't think Mr. Vannicur is a defendant or a named conspirator.

MR. PUCCIO: I ask that it be taken subject to connection, your Honor.

THE COURT: I will allow it.

MR. IANNUZZI: Subject to connection, sir?

THE COURT: Subject to connection.

MR. IANNUZZI: Thank you, sir.

Q Now, listening to the seventeen conversations did you in fact hear the voice of Mr. Oddo and Mr. Vannicur?

A Yes, sir.

Q Were you able to positively identify Mr. Oddo's voice and Mr. Vannicur's voice?

A Yes, sir.

Q And did you compare the conversations in which appears the individual you identify as Mr. Oddo with the transcripts contained in Government's Exhibit 3500-3?

A Yes, sir.

Q And did you compare the conversations in which you identified Mr. Vannicur as the speaker with the transcript denominated Government's Exhibit 3500-3?

A Yes, sir.

Q And is Government's Exhibit 3500-3 a word-for-word transcript of Mr. Oddo's voice and Mr. Vannicur's voice on the telephone?

A Yes, sir.

MR. PUCCIO: Your Honor, I would ask Mr. Tobin to step down and I will call Mr. Morrow who is out in the hall.

MR. IANNUZZI: If your Honor please, I would assume that the proper procedure would be if there is cross-examination of Mr. Tobin that we complete him and call the other.

THE COURT: No, I am not sure of that. This is only to establish a basis for the introduction of the tapes.

MR. IANNUZZI: Yes, I understand.

THE COURT: If there is a voir dire, if you

think there is a basis for a voir dire, then I would think you would start with Mr. Couture.

MR. IANNUZZI: I would say with this witness, so we wouldn't have so many interruptions.

I would prefer to finish one at a time.

MR. PUCCIO: Perhaps we can do it in reverse order.

Now, Mr. Morro will be very short and perhaps we car start with him.

MR. IANNUZZI: May I concede that Mr. Morro knows Italian and whatever he translated --

THE COURT: That it is an accurate transcription?

MR. IANNUZZI: Yes.

MR. PUCCIO: Then we will dispense with Mr. Morro.

Then I offer into evidence Government's Exhibits 36, 37, 38 and Government's Exhibit 3500-3.

THE COURT: Mr. Iannuzzi, is there any objection to it, in addition to those objections previously made and stated on the record?

MR. IANNUZZI: Well, since I haive made objection, I just indicate for the record I continue the same objections that I have already made.

THE COURT: Yes, we understand that.

You, Mr. Klar, take the same position?

MR. KLAR: Same objection.

THE COURT: No other objections?

MR. KLAR: No other objections.

MR. IANNUZZI: We have made complete objections.

THE COURT: I understand that.

The exhibits may be marked. The only exhibit we didn't talk about was the transcript, aside from the objection which you already made which would carry over to the transcripts, and do you have any additional 3500-3 objections?

MR. IANNUZZI: That is the transcript.

MR. PUCCIO: We only offer in Government's Exhibits 36, 37 and 38, these seventeen conversations contained in the transcripts and nothing else.

THE COURT: I understand that.

MR. IANNUZZI: My objection has already been made.

THE COURT: Yes, and of course it relates to the transcript but I want to know if you make any additional objections to the transcripts.

MR. IANNUZZI: No.

MR. KLAR: No.

THE CLERK: Government's Exhibits 36, 37 and 38 previously marked for identification marked in evidence, and Government's Exhibit 3500-3 previously marked for identification is now marked in evidence as Government's 39.

MR. PUCCIO: I ask Mr. Tobin to step down from the witness stand and I ask that Mr. Couture replay certain tapes.

MR. IANNUZZI: Just in respect to ordinary procedure, should we not perhaps cross-examine before we do that?

THE COURT: Well, let me explain this, the ordinary procedure would be for Mr. Puccio to complete his direct which includes the playing of the tapes and then full cross-examination. That is why I asked if you wanted a voir dire and that would be prior to the marking of the exhibits into evidence.

MR. IANNUZZI: May I do this, could I just confer with you and Mr. Puccio at side bar?

THE COURT: No, I think it is easier if the jury withdraws from the courtroom.

MR. IANNUZZI:, All right.

(The jury withdrew from the courtroom at 4:55 p.m.and the following occurred out of hearing of the jury.)

MR. IANNUZZI: Your Honor, the only thing I would want to indicate that I had intentions during my defense in chief to bring a man, a tape man in.

I don't know if that would be part of the voir dire, but if it is I would like to reserve it for later on. I don't want to interrupt this. I would bring in a tape man just to listen to the tapes and confirm the fact that these things have been put together.

THE COURT: Well, that would be on your case.

MR. IANNUZZI: That is what I mean.

THE COURT: There is no question about that.

MR. IANNUZZI: Then I won't go into a voir dire in reference to it.

I will just put the man on later. I wanted to preserve that aspect of it.

THE COURT: No question about that, the quality, the accuracy, anything to do with the tapes, the condition, how they play back, what is lost, is always fair game.

MR. PUCCIO: How long do you plan to sit tonight,your Honor?

THE COURT: I had planned to sit longer but I have another matter at five o'clock.

MR. PUCCIO: If your Honor is going to sit later than five we will set up the tapes.

THE COURT: I can't because I have another matter at five o'clock.

MR. PUCCIO: Then I do not think there is any point in setting up ear phones and all the paraphernalia.

THE COURT: All right. We will call them in and we will suspend.

Tomorrow morning you will distribute copies of the 3500-3.

MR. PUCCIO: Every juror will have an ear phone and a copy.

THE COURT: Before ten o'clock?

MR. PUCCIO: Yes.

MR. IANNUZZI: In connection with the ear phones, your Honor, this machine has an audio speaker and it can be heard and it is audible and I am wondering because now we are going to be using wireless, battery operated head phones and I am saying I do not think it is necessary.

THE COURT: I can tell you this, I tried to listen to these tapes and I can't hear them from that speaker, but when I put ear phones on, and I

have used them, the reception is improved 500 per cent.

I don't care if it is heard on the speaker at all, but you will get ear phones too. You will see the difference.

MR. IANNUZZI: I understand that.

MR. PUCCIO: These have been used recently before Judge Costantino with good results.

THE COURT: I couldn't hear it from that speaker.

MR. IANNUZZI: I just didn't want to get into a situation of ear phones and are they transmitting the frequencies and all that sort of thing.

THE COURT: I don't know what the frequencies are and I am not conscious that it is any different than just listening to the tape, whether it is through the speaker in the player or whether it is through ear phones.

MR. IANNUZZI: I might say this, I have seen people unbelievably, they do it in New York, they do it riding a bicycle or walking in the street and they have these things popped over their ears and they are radios, so that these mechanisms can pick up different sounds.

THE COURT: Pick up sounds other than the tape?

MR. IANNUZZI: Yes.

MR. PUCCIO: That cannot happen, and we will have speakers and if Mr. Iannuzzi cares to he can listen to the speaker with one ear and listen to the ear phone with the other. It cannot be any different.

THE COURT: Mr. Couture performed a miracle if he ~~can get anything from~~ that tape --

MR. IANNUZZI: I was suggesting the possibility and I am just doing this in levity, that there be little tape recorders inside the ear piece and they will be listening to different conversations.

THE COURT: You can examine all the ear phones and you can have the expert do it.

MR. IANNUZZI: I just didn't think it was necessary if you have all the ear phones and make a whole production out of it.

THE COURT: I don't think the speaker is necessary but the ear phones are.

All right, I will excuse the jury.

(The jury entered the courtroom at five o'clock.

THE COURT: Ladies and gentlemen of the jury, we will suspend at this time. The lawyers agree there is little sense in starting the playing of the tapes at five o'clock but tomorrow morning each juror

will get a copy of this transcript which is now marked Exhibit 39 and ear phones so that you can hear the tapes as they are played and you will be able to follow the tapes more easily; but the important thing is that the tapes which you hear is the evidence. The transcript that you get is just for a guide. Of course when it comes to the French part of it and a few Italian words, then you make a determination as to whether the translation is accurate based on the testimony thus far given.

Do not talk about the case when you reassemble tomorrow.

Do not discuss it among yourselves.

I expect that we will start promptly at ten o'clock. I am sorry I cannot give you any word on the newspapers. I asked you not to read the newspapers and I asked you not to watch any news programs on television or radio broadcasts. If the news program comes up I expect that you will just turn it off and listen to some entertainment. It is not because I believe there is any likelihood of probability, but I am a little overcautious and I do not want you to be influenced in any way by anything that might be occurring or be the subject of comment by newscasters.

If there is any change in the reading of newspapers I will let you know. So far do not read any newspapers and it will probably be a relief for you for the next few days. All we hear about is unemployment and possibility of war and renewal of the war in the Viet Nam area. While you are sitting on the jury you cando without that.

I will see you tomorrow morning and we will start promptly at ten o'clock.

Good night.

Just one moment. Alternate No. 2 said he had a particular problem. You said that your wife may go into the hospital?

ALTERNATE NO. 2: Yes, on the 14th, your Honor.

THE COURT: Would it require your attendance at the hospital?

ALTERNATE NO. 2: It is a matter of getting her there.

THE COURT: Well, we will wait until then and we will try to work it out then.

(Trial adjourned to January 10, 1975, at 10:00 a.m.)

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EXHIBITS

Government's Exhibit No.	Description	For Id.	In Ev.
3500-5	8-page affidavit	489	
3500-7	3-page Report (Sedillo)	591	
36, 37, 38	Three tapes	638	659
39	Report		659

A 1746

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U. S. DISTRICT COURT E.D. N.Y.
JAN 28 1975
TIME A.M.....
P.M.....

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

-against- :

73-CR-898

FRANK COTRONI, FRANK DASTI, :

Defendants. :

----------x

United States Courthouse
Brooklyn, New York

January 10, 1974
10:30 o'clock A.M.

B e f o r e :

HONORABLE JACOB MISHLER, Chief U.S.D.J.

and a Jury

EMANUEL KARR
OFFICIAL COURT REPORTER

101

A 1747

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: THOMAS PUCCIO, ESQ.
Assistant U.S. Attorney

JOHN N. IANNUZZI, ESQ.
Attorney for Defendant Cotroni

MICHAEL KLAR, ESQ.
Attorney for Defendant Dasti

THE CLERK: The United States of America against Frank Cotroni and Frank Dasti, case on trial.

(The following occurred in the absence of the jury.

MR. IANNUZZI: May I address the Court? I just have been thinking over the evening, sir, and in conjunction with my request of yesterday afternoon as to the witnesses and the tapes, since Mr. Puccio is not going to play all of these tapes, in other words, they are not really going to be a direct part of Mr. Couture's testimony but will be played throughout the trial thereafter --

MR. PUCCIO: I will be recalling Mr. Couture from time to time.

MR. IANNUZZI: Yes, yes.

So what I thought was since this is going to be in bits and parts of Mr. Couture's testimony, and Mr. Tobin is an open witness, maybe we can dispose of at least this part of the testimony up to this point and continue comfortably with the tapes and the introduction of the separate tapes later on, but at least we can get rid of the cross-examination up to that point.

MR. PUCCIO: We have already offered the tapes and received them.

THE COURT: Why can't you play all the tapes?

MR. PUCCIO: Because we are trying, your Honor, to keep the chronology. The tape recordings were made on different dates in December and January, in between certain tapes there were surveillances of areas, and for the jury to understand -- well, if we play a tape and then the surveillance and then play the tape, another couple of tapes, then the surveillance, in that way we keep the chronology.

MR. IANNUZZI: What I want to do is to dispose of that aspect of the initial part of putting the tapes together and then we can go from there and handle each piece as we go along.

MR. PUCCIO: I object to an interruption of it at this point.

THE COURT: I won't allow that.

MR. IANNUZZI: It is going to be interrupted all along, that is the point.

THE COURT: But there is a chronological sequence to the way the Government wants to offer it, it makes sense.

MR. IANNUZZI: I understand that, sir, but if the District Attorney -- the United States Attorney can object to breaking up the chronology, then might I make an objection to breaking it up, too, and then

playing the tapes all the way through, this way we are having a choppiness.

MR. PUCCIO: We are offering the evidence on our case.

MR. IANNUZZI: I understand.

THE COURT: If he listens to it he can say, I heard this and I heard that.

MR. IANNUZZI: Right, right. But I just want to get the initial stage out of the way and we don't have to come back to it. They have heard certain testimony then they are going to hear all types of tapes, et cetera, et cetera, then I will cross-examine, it is going to be rather confusing on cross-examination.

THE COURT: No, it won't.

MR. KLAR: I would like to make an application at this time to suppress tape recording Nos. 9 and 11 of Government's Exhibit 35-3 on the grounds that they contain privileged communications between the defendant Frank Dasti and his wife, which communications are protected by Section 2517, Subdivision 4 of Title 18, United States Code.

THE COURT: Are you going to play any of those now?

MR. PUCCIO: Which?

MR. KLAR: Nos. 9 and 11.

MR. IANNUZZI: This is between the wife and the husband.

THE CLERK: That is Government's Exhibit 39.

MR. IANNUZZI: That's Government's Exhibit 39.

MR. KLAR: I am sorry, I didn't know whether they were going to be played now, I assume they are going to be played today.

I will point out that no other participants are in that conversation except Mr. Dasti and his wife.

THE COURT: When did you get the tapes, when did you get the transcripts, when were you first aware?

MR. KLAR: Of these, I think around November 14th.

There have been other questions that have been raised --

THE COURT: Why didn't you raise it up until now?

MR. KLAR: Well, the question of the suppression of the tapes had been raised as a whole as to whether or not they are inadmissible, and I felt the objection continued until the point that the tapes ought to be introduced into actual evidence as if the witness was going to come in and testify on his own knowledge and that he overheard the conversation.

MR. PUCCIO: Well, your Honor yesterday asked

if there are any objections to the tapes and there were no objections.

In the first round of recordings we won't offer --

THE COURT: That is all I am interested in. I will consider the other question and you can submit a brief on it.

Seat the jury.

MR. PUCCIO: The defendant should submit a brief?

THE COURT: What?

MR. PUCCIO: Is the defendant to submit a brief?

THE COURT: I want both to submit a brief.

MR. IANNUZZI: Oh, what is that, sir?

THE COURT: Mr. Dasti -- Mr. Klar, Mr. Klar will submit a brief.

MR. IANNUZZI: All right.

MR.PUCCIO: All right.

THE COURT: Particularly on the question of timeliness of the motion.

I think there comes a time when you make all your motions and this is it.

Seat the jury.

(The jury took its place in the jury box.)

THE COURT: Good morning, ladies and gentlemen.

MEMBERS OF THE JURY: Good morning.

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THE COURT: We will continue now where we suspended yesterday, and that is to listen to some tapes.

MR. PUCCIO: I would like to just call Mr. Couture to the stand for a minute.

THE COURT: All right.

B A R N A R D C O U T U R E , having been previously sworn, continued to testify as follows:

THE COURT: You may proceed.

You may be seated, Mr. Couture.

DIRECT EXAMINATION

BY MR. PUCCIO (Continued):

Q Mr. Couture, I would like to direct your attention to a conversation, to conversation No. 1 in Government's Exhibit 39 in Evidence.

A Yes, sir.

Q Is that a conversation between --

THE COURT: Incidentally, I ask the jury not to look at any other transcript than those referred to, take them in order, just one, but don't go beyond it, Please.

Q Is that a tape-recording of the conversation between Mr. Dasti and Mr. Oddo?

A Yes, sir.

Q And would you be able to indicate for us the

date that that conversation took place as best as possible?

A Yes, sir.

This conversation took place at the Victoria Sporting Club in Longueuil, and we intercepted this phone call on 514-677-9272, which was the business phone at the Victoria Sporting Club.

Q Was it a call made to the Victoria Sporting Club?

A Yes, sir.

Q And was a wiretap installed on that telephone at the Victoria Sporting Club?

A Yes, sir.

Q When was this conversation intercepted?

A This conversation was intercepted between 4 p.m. on December 30, 1970 and 4 p.m. December 31, 1970.

Q All right, Mr. Couture, can you play that conversation for us, please.

A Yes, sir.

MR. IANNUZZI: May we have a limiting instruction to the jury concerning conversations in which the defendant Cotroni is not a participant unless and until the jury may find that there was a conspiracy.

(Continued on next page.)

THE COURT: You will recall that I gave a limiting instruction at the outset of this trial.

Now, this is a conversation purportedly between one Paul Oddo and the defendant Frank Dasti. Of course anything that either said to the other is in no way binding upon the defendant Frank Cotroni. I told you there was an exception to that rule. If you find that the conspiracy alleged in the indictment is established by proof beyond a reasonable doubt and that it existed during the term alleged, and this conversation is allegedly on December 30, 1970, and if you find that this conversation had something to do with the sale of cocaine, then it is binding on the defendant Frank Cotroni only as if, and when, the Government proves beyond a reasonable doubt that the defendant Frank Cotroni knowingly and wilfully entered into that conspiracy. If all of that is not shown, then just disregard it.

MR. PUCCIO: Your Honor, perhaps we might indicate to the jury that on each headset there is a volume control.

THE COURT: Yes, there is a little dial.

MR. PUCCIO: And in addition, your Honor, I think it might be worthwhile for us to play a feet

of tape to see if everyone can hear and then start from the beginning again, just so that we know each person is hearing.

THE COURT: This first few feet of the tape is a test?

All right, all right.

MR. PUCCIO: Your Honor, I just want to make sure that everyone here is hearing.

(At this point sound emanated from the headset.)

THE COURT: Are all the sets working?

JUROR NO. 5: No, sir.

ALTERNATE JUROR NO. 2: No, sir.

THE COURT: Start it again.

All right, Mr. Couture, is that all right now? I think we have it now.

Are your ear sets working?

(The members of the jury indicated in the affirmative.)

(Transcription of Call No. 1 follows:)

"Palmieri: Hello!

"Oddo: Hello! Is Frank there please?

"Palmieri: Yeah.

"Dasti: Hello!

"Oddo: Hello Frank.

"Dasti: How are you?

"Oddo: How is everything?

"Dasti: How was your Christmas?

"Oddo: Happy eh, not too, you know, so so

"Dasti: Yeah, listen

"Oddo: Yeah!

"Dasti: Have you got that phone number that I gave you? You ain't got it huh? At the Oscar Hotel there?

"Oddo: No!

"Dasti: No, huh? Mannaggia a madonna.

"Oddo: I've got the 0 0.

"Dasti: Huh?

"Oddo: That's at the o o. 0033

"Dasti: No, no.

"Oddo: No, huh.

"Dasti: No, eh, you got that one?

"Oddo: No. I had it; now I don't know.

"Dasti: Yeah, uh.

"Oddo: I don't know the, the the front part.

"Dasti: Where are you? With Tony?

"Oddo: No, by myself.

"Dasti: You're by yourself?

"Oddo: Yeah!

"Dasti: Are you gonna get in touch with Tony later?

"Oddo: Yeah!

"Dasti: All right. Why don't you give me a call back.

"Oddo: Yeah.

"Dasti: And eh get to a phone and I'll call you back, cause I want to ask eh you or him something, you know?

"Oddo: Oh good, real good.

"Dasti: Yeah.

"Oddo: I'll call you back.

"Dasti: Yeah.

"Oddo: Yeah but see, I don't know what time I can get in touch with him cause he's at the hospital.

"Dasti: He's at the hospital?

"Oddo: His son got operated on his knee.

"Dasti: He got operated?

"Oddo: The son.

"Dasti: Uh huh.

"Oddo: So, I think he's there at the hospital.

"Dasti: Uh huh.

"Oddo: But you can ask me, what's the difference.

"Dasti: Yeah, I know, same thing: It makes no difference yeah.

"Oddo: Yeah.

"Dasti: Eh, do you know what I used to give you?

"Oddo: Yeah!

"Dasti: Could you use the other one? If you understand me.

"Oddo: Eh, the damaged goods you mean?

"Dasti: No, no, no, no. The other one.

"Oddo: Oh, I know what you mean. I don't know.

"Dasti: Starts with a C.

"Oddo: Yeah, I know.

"Dasti: Yeah.

"Oddo: Ehh, we could eh manage with that.

"Dasti: Yeah?

"Oddo: Eh, you you don't know what the figures, this way I could find, you know.

"Dasti: Well, the figures, the figures are about the same.

"Oddo: They're around the same, eh?

"Dasti: Yeah!

"Oddo: Yeah well I ain't too, cause that there is much lower, you know, over here.

"Dasti: Yeah? Well find out anyway.

"Oddo: Al right, there's nothing with the other, eh?

"Dasti: Eh, in in about a, I just blew another one.

"Oddo: Oh shit!

"Dasti: You know something is wrong, I don't know where but eh

"Oddo: Yeah, yeah.

"Dasti: Eh it's gonna be straightened out anyway.

"Oddo: All right look eh.

"Dasti: So.

"Oddo: I'll find out about that.

"Dasti: So they eh, they, for me to get even.

"Oddo: Yeah.

"Dasti: They, you know, they pushed that thing on me, you know.

"Oddo: Oh, I see what you mean.

"Dasti: You understand?

"Oddo: Well, look, I'll try my best, all right?

"Dasti: Well, let me know something because the party's going to be in there eh, in New York eh in a, in a couple of days eh, you know five, six days.

"Oddo: Oh yeah?

"Dasti!

"Oddo: Well, look eh, when (bad connection)

"Dasti: Hello!

"Oddo: Hello!

"Dasti: Yeah!

"Oddo: Tomorrow you won't be there uh?

"Dasti: No, tomorrow I won't be here but tomorrow

"Oddo: So how can we get, where should I get in touch with you? Saturday?

"Dasti: Tomorrow I can give you a call though.

"Oddo: You can give me a call.

"Dasti: Listen, I'll be here till about four o'clock. Can you give me any answer by four?

"Oddo: Yeah, maybe.

"Dasti: Huh?

"Oddo: Maybe.

"Dasti: All right, tell you what you do; if you cannot give me an answer by four, give me a call anyway.

"Oddo: All right, either way I'll call you.

"Dasti: But, then I'll give you a number tomorrow morning.

"Oddo: Oh, very good.

"Dasti: Okay?

"Oddo: Very good (phone ringing in background)

"Dasti: Right.

"Oddo: Good.

"Dasti: Bye

"Oddo: Okay, and have a good New Year, you know.

"Dasti: Thank you.

"Oddo: All right, so long.

"Dasti: Same to you, bye."

(This concludes Call No. 1.)

MR. PUCCIO: Your Honor, I would ask Mr. Couture to take the witness.

(Mr. Couture, the witness, re-took the witness stand.)

BY MR. PUCCIO:

Q Now, Mr. Couture, on Thursday, December 31, 1970, between 4 p.m. and 8 p.m., was a tape-recording made of a conversation between-or was a call placed by Mr. Dasti -- by, by Mr. Oddo to Mr. Dasti at the Victoria Sporting Club?

A Yes, sir, it was.

Q Will you play that call, please.

A Yes, sir.

Q That will be No. 2.

A Yes, sir.

(Transcription of Call No. 2 follows:)

"Dasti: Hello!

"Oddo: Hello!

"Dasti: Yeah?

"Oddo: Just a minute. (Money deposit in the pay phone)

"Hello!

"Dasti: Yeah, boy.

"Oddo: How are you?

"Dasti: Okay.

"Oddo: Look eh, could you give me that number? and I'll contact you in the morning.

"Dasti: Eh, can I call you home in the morning?

"Oddo: Eh, about what time?

"Dasti: Any time you say.

"Oddo: Call me about eh, eleven?

"Dasti: Eleven o'clock.

"Oddo: Yeah.

"Dasti: Okay.

"Oddo: Look eh.

"Dasti: Yeah.

"Oddo: Eh, you know them, them, them, that clothe them clothes them, that suits when you pay for them? The suits?

"Dasti: I don't know that's what I'm trying to explain to you.

"Oddo: Yeah.

"Dasti: I'll know more today.

"Oddo: Oh oh good then then I'll call you in the mornin.

"Dasti: Yeah, eh I'll call in the morning.

"Oddo: Meanwhile, see I know already where I gotta go, you know?

"Dasti: Yeah.

"Oddo: But the thing is I gotta find out eh eh, you know, what's what, you know.

"Dasti: Yeah, yeah.

"Oddo: You know.

"Dasti: Yeah.

"Oddo: And how, how many suits you gotta.

"Dasti: Gotta, I can get a few dozens.

"Oddo: Yeah? Oh, man, beautiful.

"Dasti: Yeah.

"Oddo: All right, okay.

"Dasti: All right, so I'll talk, I'll

"Oddo: So you'll call me eleven.

"Dasti: Yeah.

"Oddo: O.K., good, very good.

"Dasti: All right. O.K. buddy.

"Oddo: And have a Happy New Yeah huh.

"Dasti: Same to you.

"Oddo: O.K., so long.

"Dasti: Bye bye.

(This concludes Call No. 2.)

MR. PUCCIO: Mr. Couture, could you take the stand again.

(The witness re-took the witness stand.)

BY MR. PUCCIO:

Q Now, on Friday, January 1, between 3 a.m. and 4 p.m. was a tape recording made of a call placed by Mr. Dasti to Mr. Oddo?

A Yes, sir.

Q Would that be conversation No. 3 in the Exhibit; is that correct?

A Yes, sir.

Q And where was that call placed from?

A It originated, was made from Mr. Dasti's residence.

Q The call was placed by Mr. Dasti from his residence?

A Yes, sir.

Q Can you play that call, please.

A Yes, sir.

MR.IANNUZZI: May the record indicate that he is using Exhibit 37 for this one.

THE COURT: Yes.

(Transcription of Call No. 3 follows:)

"Oddo: Hello.

"Dasti: Hello, Paul?

"Oddo: Eh, how are you?

"Dasti: Fine, how are you?

"Oddo: What's doin?

"Dasti: No much.

"Oddo: Man, we're snowed in here.

"Dasti: Are you kiddin?

"Oddo: I'm not kiddin you.

"Dasti: You're snowed in?

"Oddo: Yeah, we're all snowed in.

"Dasti: How many inches of snow there?

"Oddo: Ourself, over here, you know, you get five or six inches here.

"Dasti: Yeah.

"Oddo: That's a load of snow. Everything is eh jammed in.

"Dasti: Yeah?

"Oddo: Yeah.

"Dasti: Uh huh.

"Oddo: Listen did you find anything out?

"Dasti: Yeah it's about I mean eh we can make a deal, there's no question about it.

"Oddo: Oh good!

"Dasti: Yeah.

"Oddo: Because, look it.

"Dasti: Yeah.

"Oddo: No matter how many, you know eh.

"Dasti: Yeah.

"Oddo: The clothes and all.

"Dasti: Yeah.

"Oddo: No matter how many whe, I got the guy.

"Dasti: All right then, I'll tell you what I'll do. I'm gonna give you a call on eh, eh, tomorrow is Sa, tomorrow is Saturday right?

"Oddo: Yeah.

"Dasti: All right then, you

"Oddo: Tomorrow 'll be a g, good, because this way I can tell the guy what's what, you know.

"Dasti: Yeah, all right. You you you take care of your side; give me a call tomorrow. I'll give you a number.

"Oddo: That's right. See I gotta figure out

the the price, you know.

"Dasti: Yeah, all right. So we'll we'll take care of that anyway.

"Oddo: Yeah eh, this way I can tell him what, you know?

"Dasti: Yeah, there's no problem to that

"Oddo: All right, tomorrow you can tell me that right?

"Dasti: Yeah, tomorrow eh, as long as I know that, cause I'm gonna make a phone call now and tell him it's O.K. that.

"Oddo: Yeah! But you know what?

"Dasti: Yeah.

"Oddo: Now I'm gonna tell this guy eh, he's gonna, he's gonna get them suits you know?

"Dasti: Yeah, yeah it's all right.

"Oddo: It's, I don't like, I only hope like it don't fall back you know?

"Dasti: No, no, it won't fall back.

"Oddo: Cause I promised him, you know.

"Dasti: No you, it won't fall back; all it's gonna take is about ten days.

"Oddo: About ten days?

"Dasti: Seven eight, nine, ten days, but it

won't fall back, that I guarantee you.

"Oddo: All right. Now look eh, oh you want me to call you tomorrow.

"Dasti: Yeah! Well you, yeah you better call tomorrow around eh, well what time, what time you can call me?

"Oddo: Any time you want.

"Dasti: All right, call me around el two o'clock.

"Oddo: About two?

"Dasti: Yeah!

"Oddo: O.K.

"Dasti: I guarantee you it's not gonna fall down.

"Oddo: Very good, Frank.

"Dasti: But eh, cause eh, tomorrow morning in eh, Sun, Sunday morning I'm giving him the O.K.

"Oddo: Oh good.

"Dasti: And I might give him the O.K. right now about twelve o'clock.

"Oddo: All right, good. So I. I'll wait for your call I'll call you tomorrow, right?

"Dasti: Yeah, you better call me tomorrow?

"Oddo: Then you know, you know, you how we do it.

"Dasti: Yeah.

"Oddo: O.K.

"Dasti: O.K., all right.

"Oddo: Very good, Frank.

"Dasti: Take it easy.

"Oddo: And have a good day huh.

"Dasti: Same to. Thank you.

"Oddo: So long.

"Dasti: So a lot of snow there?

"Oddo: Ah, over here it's a lot of snow.

"Dasti: Yeah.

"Oddo: To you, it don't mean nothing.

"Dasti: In New York too?

"Oddo: Over here it's five inches or something.

"Dasti: (Incomprehensible) in New York too (incomprehensible)?

"Oddo: Yeah!

"Dasti: Yeah hey?

"Oddo: It's loaded here.

"Dasti: O.K. Buddy.

"Oddo: O.K.

"Dasti: I'll talk to you tomorrow.

"Oddo: O.K., good.

"Dasti: Right, bye.

(This concludes Call No. 3.)

MR. IANNUZZI: Will the record indicate that it would be Exhibit 36 for the first one.

MR. PUCCIO: The first two were from Exhibit 36, yes, and this call is from Exhibit 37.

(Continued on next page.)

:GA
R3 AM

BY MR. PUCCIO:

Q Now, Mr. Couture, on the same day, that is Friday, January 1, 1971, between the hours of 8:00 A.M. and 4:00 P.M., was a tape recording made of a conversation between Mr. Dasti and Cotroni?

A Yes, sir, there was an outgoing call made from Mr. Dasti's residence, and the call was from Mr. Dasti to Mr. Cotroni.

Q Will you please play that call.

That will be conversation number four; is that correct?

A Correct, sir.

Q And that is in French; is that correct?

A Yes, sir.

(Transcription of Call No. 4 follows:)

"Unknown male: Hello!

"Dasti: Quan, Frankie s'il vous plait!

"Unknown male: Euh, Frankie? Qui c'est qui parle là?

"Dasti: Frank DASTI!

"Unknown male: Frank DASTI! Un instant m'a regarder.

"Cotroni: Hello!

"Dasti: Quan.

"Contronі: Bonjour. J'viens justement d'me rā-veiller!

"Dasti: Quan, j'figure parce que la ligne ētait occupēe tout ā l'heure.

"Cotroni: Quan, j'ai dēcrochē les lignes, quan.

"Dasti: Quan. Tu t'en vas ā cinq heures toē?

"Cotroni: Ah, j'pars euh: Quan ā cinq heures et demie; j'pars d'la maison ā peu pres ā trois heures.

"Dasti: Quan.

"Cotroni: Quelle heure qu'il est lā? Un heure et quart, un heure et demi?

"Dasti: Lā, il est un heure et quart.

"Cotroni: Bon.

"Dasti: Quan, j'ai parlē avec le gars, tu sais!

"Cotroni: Quan.

"Dasti: Pis euh, lui il est ben satisfait, tu sais, si euh, si le loyer y remonte pas, tu sais!

"Cotroni: Quan, j'comprends, quan.

"Dasti: Tu sais, il est ben satisfait pis euh, il est prēt ā louer la place, tu sais.

"Cotroni: Quan? (incomprēhensible)

"Dasti: Quan, n'importe quoi c'que, que j'vas y dire il ya faire, tu comprends?

"Cotroni: Quan.

"Dasti: Y euh.

"Cotroni: Ben, écoute ben là!

"Dasti: Quan.

"Cotroni: Vers quelle heure tu sors de chez vous toé?

"Dasti: Vers quelle heure que j'm'en vas de chez nous?

"Cotroni: Quan!

"Dasti: Quan, j'm'en vas souper chez ma soeur.

"Cotroni: Ah, tu t'en vas souper chez ta soeur hein!

"Dasti: Quan.

"Cotroni: Quel bout qu'à reste ta soeur?

"Dasti: A reste à Rosemont!

"Cotroni: Rosemont?

"Dasti: Onzième avenue, Rosemont.

"Cotroni: Ben oui, mais c'est, c'est parfait. Ca f'rait mon affaire mais j'veux dire à quelle heure à peu près tu, tu vas chez ta soeur, t'as pas une idée?

"Dasti: Attends une minute là. J'vas aller d'mander à ma femme voir a quelle heure qu'alle va être prête elle, parce que ca c'est une malade ca, une minute.

"Cotroni: Oui, oui.

"Dasti: Quan c'est-tu, faut-tu absolument que tu m'voies?

"Cotroni: Non, non!

"Dasti: Non?

"Cotroni: Non, non, c'est pas important, non!

"Dasti: Ah, c'correct d'abord. Comme ca moē j'vas te, on, on va voir comment s'qu'on...

"Cotroni: Quan, comment s'qu'on, comment s'qu'on (incomprēhensible) lā!

"Dasti: Quan!

"Cotroni: Okay, pis tu m'appelles dimanche?

"Dasti: Oui, oui.

"Cotroni: Euh, tu m'appelles dimanche matin ā l'heure d'icitte lā.

"Dasti: Quan, quan, dix heures.

"Cotroni: Ca veut dire ā partir de, de dix heures.

"Dasti: C'est ca!

"Cotroni: Moē m'a rester lā!

"Dasti: Okay.

"Cotroni: Okay?

"Dasti: Right!

"Cotroni: Bonjour.

"Dasti: Fais un bon voyage.

"Cotroni: Toi pareillement."

(This concludes Call No. 4.)

MR. PUCCIO: Your Honor, with respect to the call

in French, may I be permitted to read the translation of this call? I believe it is difficult to follow when you are listening to it.

THE COURT: All right.

MR. PUCCIO: (Addressing jury.) It is an outgoing call from Frank Dasti's residence, calling Mr. Controni:

"Unknown male: Hello.

"Dasti: Yeah, Frankie, please.

"Unknown male: Hm, Frankie? Who is speaking there?

"Dasti: Frank Dasti.

"Unknown male: Frank Dasti! One moment, I'll have a look.

"Cotroni: Hello.

"Dasti: Yeah.

"Cotroni: Good day. I just woke up.

"Dasti: Yeah, I fugure so, because the line was busy a while ago.

"Cotroni: Yeah, I took off the lines, yeah.

"Dasti: Yeah, you're leaving at five o'clock, you?

"Cotroni: Ah, I'm leaving, hun! Yeah at five thirty: I'm leaving the house at about three o'clock.

"Dasti: Yeah.

"Cotroni: What time is it? One fifteen, one thirty?

"Dasti: Now, it is one fifteen.

"Cotroni: Good.

"Dasti: Yeah, I spoke with the guy you know!

"Cotroni: Yeah.

"Dasti: Yeah and he was very satisfied you know, if, hm, if the rent does not go up, you know.

"Cotroni: Yeah, I understand, yeah.

"Dasti: You know, he is very satisfied, and hum, he is ready to rent the place you know.

"Cotroni: Yeah? (incomprehensible)

"Dasti: Yeah, anything that eh, that I'll say, he'll do, you understand?

"Cotroni: Yeah.

"Dasti: He eh.

"Cotroni: Now listen, now!

"Dasti: Yeah.

"Cotroni: Around what time do you leave your place you?

"Dasti: Around what time do I leave my place?

"Cotroni: Yeah.

"Dasti: Yeah, I'm going for supper at my sister's place.

"Cotroni: Ah, you are going for supper at your

sister's place, eh?

"Dasti: Yeah.

"Cotroni: Whereabout, does your sister live?

"Dasti: She lives in Rosemont!

"Cotroni: Rosemont?

"Dasti: Eleventh avenue, Rosemont.

"Cotroni: Very good, but this, this is perfect. This would suit me fine, but I mean at what time about, you are going to your sister's, at about what time?

"Dasti: Wait a minute. I will go and ask my wife at what time she will be ready, you know how she is, wait a minute.

"Cotroni: Yes, yes.

"Dasti: Yeah, do you really have to see me?

"Cotroni: No, no.

"Dasti: No?

"Cotroni: No, no, it's not important, no!

"Dasti: Ah, ok, then, as for me then, we will see how we ...

"Cotroni: Yeah, how we will, how we will (incomprehensible).

"Dasti: Yeah.

"Cotroni: Ok. So you'll call me Sunday?

"Dasti: Yes, yes.

"Cotroni: Hm. you call me Sunday morning, at the time here. (meaning standard time)

"Dasti: Yeah, yeah, ten o'clock.

"Cotroni: This means, starting at, at ten o'clock.

"Dasti: That's right.

"Cotroni: Me, I'll stay there!

"Dasti: OK.

"Cotroni: OK?

"Dasti: Right.

"Cotroni: Goodbye.

"Dasti: Have a good trip.

"Cotroni: You, too."

Mr. Couture, will you please take the stand.

(The witness re-took the witness stand.)

BY MR. PUCCIO:

Q On Saturday, January 2, the next day, was a tape recording made of the conversation between Mr. Oddo and Mr. Vanacora and Mr. Dasti?

A Yes, sir.

Q And was that an incoming call placed by Mr. Oddo and Mr. Vanacora to Mr. Dasti at the Victoria Sporting Club in Montreal?

A Yes, sir.

Q Would you play that call, please.

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That will be Number 5, Mr. Couture; is that right?

A Yes, sir.

fls

(continued on next page.)

(Transcription of tape)

"Dasti: Hello.

"Oddo: Hello. How are you?

"Dasti: Ah, how are you?

"Oddo: O.K. Eh look eh.

"Dasti: Yeah.

"Oddo: Well look, I'll put eh, eh you know what's his name on.

"Dasti: Yeah, I'll talk.

"Oddo: All right.

(Vanacora to Frank Dasti)

"Vanacora: Hello.

"Dasti: How are you?

"Vanacora: Happy New Year.

"Dasti: Same to you, buddy.

"Vanacora: HOw's everything?

Dasti: Eh, just like that.

"Vanacora: We were talking about that other situation, and eh.

"Dasti: Yeah.

"Vanacora: It's most, you know, it's too, less than the other thing, a lot less cause there's a lot of that around.

"Dasti: Yeah, huh.

"Vanacora: But on the other thing, my god, (sigh).

'Dasti: I know, but the other thing has to wait.

"Vanacora: Yeah, huh.

"Dasti: Yeah, which I do gonna have it anyway.

"Vanacora: You think so?

Dasti: Yes, soon as this one goes through I'm gonna have it for sure.

"Vanacora: Could you give us eh, eh your rough, a low figure on that there.

"Dasti: Well the lowest, I can make it the lowest, eh it's, it's impossible to talk about it, you know, unless there's a, a difference of five, you understand?

"Vanacora: Uh huh.

"Dasti: Cause eh, you, you know eh I'm stuck with too much money eh, don't you understand?

"Vanacora: Yeah.

"Dasti: I went through a lot of fuckin money and eh these guys are giving me a break on this; try eh wait for the other one, you know?

"Vanacora: But if somebody wants it all.

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"Dasti: Huh?

"Vanacora: If I got somebody which I'm gonna meet at four thirty.

"Dasti: Yeah.

"Vanacora: And eh, maybe they'll discuss taking it all, wha eh, you know, they, I says, they ask me like to give me their last, the best figure.

"Dasti: Yeah.

"Vanacora: What could I do?

"Dasti: Well.

"Vanacora: Maybe it's best I take a ride up there?

"Dasti: Can you eh?

"Vanacora: We sit down and have a cup of coffee together?

"Dasti: Well listen, let me tell you one thing.

"Vanacora: Yeah.

"Dasti: If you can, see what you can do: can you juggle a price for me.

"Vanacora: I see.

"Dasti: You understand? If you juggle a price for me, then I'll tell you to come down and we'll see what we can do. Can you go for about

4

twelve?

"Vanacora: Uh?

"Dasti: Can you go around twelve?

"Vanacora: No.

"Dasti: You can't go.

"Vanacora: Not for all of it.

"Dasti: Huh?

"Vanacora: Maybe there's a guy will take four, five.

"Dasti: Yeah, well.

"Vanacora: But eh, I got a guy that wants to talk business about the whole works.

"Dasti: Yeah?

"Vanacora: Maybe listen, what's the difference to you if we take a, if I.

"Dasti: Come on, take a ride down.

"Vanacora: If we take a ride.

"Dasti: O.K., take a ride then.

"Vanacora: And we spend a few hours together.

"Dasti: O.K., come on in

"Vanacora: Do you know what I mean?

"Dasti: Yeah.

"Vanacora: I'll call you before anyway.

"Dasti: Why don't you, when, when do you intend to leave?

"Vanacora: Well (coughs) we might leave eh. How many? (Talking away from phone) He said Monday.

"Dasti: Monday, fine.

"Vanacora: Is that good?

"Dasti: Yeah.

"Vanacora: All right.

Dasti: O.K.?

"Vanacora: All right Frankie.

"Dasti: So I'll wait for you on Monday.

"Vanacora: All right, state buon (Italian). (take care)

"Dasti: O.K. buddy.

"Vancora: Goodbye.

"Dasti: Bye.

DIRECT EXAMINATION

BY MR. PUCCIO: (Cont'd.)

Q Now, two days later, Mr. Couture, Monday, January 4, 1971, between the ours of 10:00 a.m. in the morning and 8:00 p.m at night, was there a tape recording made of a conversation between Mr. Oddo again and Mr. Vanacora and Mr. Dasti?

A Yes, sir.

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Q And was that call made by Mr. Oddo and Mr. Vanacora to Mr. Dasti at the Victoria Sporting Club?

A Yes, sir, at 677 9277, which is the business phone at the Victoria Sporting Club.

Q Will you play that call for us, please?

A Yes, sir.

Q That would be conversation No. 6.

(Transcription of Tape)

"Horvath: Hello?

"Oddo: Hello. How are you?

"Horvath: Hello, you shit, how are you? Wait a minute, I'll give you Frank. How are you?

"Oddo: (laughing) Ho Ho (incomprehensible) who is that?

"Horvath: Joey.

"Oddo: Eh Joey. Give my regards, tell him Happy New Year.

"Horvath: Same to you. Just a minute he's coming. (Female voice in background)

"Oddo: Eh?

"Horvath: He's here.

"Oddo: I need a dime more, wait a minute.

"Horvath: Yeah.

"Oddo: I gotta put it in (bell noise).

"Horvath: Watta, you drunk?

"Oddo: O.K., no.

"Horvath: No.

"Oddo: So, how are you?

"Horvath: Okay, just a minute.

"Dasti: Hello.

"Oddo: Hello, Frank.

"Dasti: Yeah.

"Oddo: Well here, I'll put eh, T, Tony

(Vanacora to Frank Dasti)

"Vanacora: Hello.

"Dasti: Yeah.

"Vanacora: How are you, Frank?

"Dasti: You're supposed to

"Vanacora: We were gonna leave today.

"Dasti: Yeah.

"Vanacora: And eh, you know, I was waiting for my friend who I got with, you know, we got finally got in touch with him to make sure we

"Dasti: Yeah.

"Vanacora: We doing

"Dasti: Yeah.

"Vanacora: Now eh, is it all right to leave and talk to you?

"Dasti: Why, why don't you leave now?

"Vanacora: Oh good, we'll do that.

"Dasti: Leave now, because tomorrow morning nine o'clock I wanna see you about ten.

"Vanacora: Tomorrow morning at nine?

"Dasti: About ten, cause I eh, I have something to do at about nine thirty so ten o'clock I'll

"Vanacora: You could, you could meet me.

"Dasti: Yeah, I could meet you all day it makes no different.

"Vanacora: Oh O.K. then we'll leave in about a couple of hours.

"Dasti: Couple hours so you should be here eh, you should be here during the night anyway.

"Vanacora: Well, maybe it's even better to leave a little later so we get there for the mornin.

"Dasti: Yeah, well why, the mornin you can't catch me.

"Vanacora: Can't get you in the morning?

"Dasti: Yeah, you can get me eh, as soon as I come down here but give me a call here he what time you gonna leave anyway?

"Vanacora: Well, I figure I like to leave maybe about one o'clock.

"Dasti: One o'clock. All right, so one o'clock.

"Vanacora: This way we'll be there for at nine o'clock at the latest if we run into trouble on the road?

"Dasti: Yeah, you'll be here for nine o'clock. I'll tell you what you do. Eh nine thirty I gotta make a phone call so I'll be back here for about ten thirty. Give me a call here at ten thirty. Gonna accept the call.

"Vanacora: Call you at ten thirty?

"Dasti: Yeah, ten thirty yeah.

"Vanacora: O.K. then.

"Dasti: And then I'll go and meet you.

"Vanacora: All right, good deal.

"Dasti: O.K.?

"Vanacora: All right Frank.

"Dasti: Now, take it easy and have a nice trip back, don't rush.

"Vanacora: O.K. Be well.

"Dasti: O.K.

"Vanacora: Bye.

"Dasti: Bye.

A 1790
Couture-direct

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By Mr. Puccio:

Q Now, on the next day, Tuesday, January 5th, was the tape recording made of a conversation again on Mr. Oddo and Mr. Vancora and Mr. Dasti?

A Yes, sir.

Q Now, was this again a call placed by Oddo and Vanacora to Dasti at the Victoria Sporting Club in Montreal?

A Yes, at No. 514 677 9272, which is again the business phone of the Victoria Sporting Club.

Q Was this between the hours of 10:00 am in the morning and 5:30 p.m. in the afternoon?

A Yes, sir.

Q And that's conversation No. 7. Is that correct?

A Yes, sir.

Q Will you please play that?

A Yes, sir.

(Continued on next page.)

A 1791
Couture - direct

(Transcription of tape continued:)

"Operator: Thank you.

"Palmieri: Hello.

"Oddo: Hello.

"Palmieri: Want to speak.

"Oddo: Hello, Frank?

"Palmieri: Yeah, une minute.

"Dasti: Hello.

"Oddo: Hello,Frank.

"Dasti: How are you?

"Oddo: How are you?

"Dasti: Where are you?

"Oddo: Were, we're back, we're still here.

"Dasti: You're still the --

"Oddo: (incomprehensible) little difficulty last night, with a car, then we tried to get a plane.

"Dasti: Huh, huh.

"Oddo: And it was all fogged in.

"Dasti: Yeah.

"Oddo: But we'll be up there sometime today. Here let me, let, talk to Tony a minute.

"Dasti: Yeah.

"Vancora: How are you, Frank?

"Dasti: Okay.

A 1792

Couture - direct

"Vancora: Listen; eh, how's the other thing? Anything on the other thing or we're still talking about the same thing?

"Dasti: We're talking about the same thing Tony, and I explain to you the other thing by the end of the month I should know exactly how I stand with the other one.

"Vancora: All right.

"Dasti: It should be comin in anyway.

"Vancora: Okay, then, we gonna make arrangements now.

"Dasti: Yeah.

"Vancora: And then we should be there in the evening, I'll give you; is it all right to call you after five-thirty?

"Dasti: Five-thirty?

"Vancora: You know, yeah.

"Dasti: Yeah, I'll be here at five-thirty.

"Vancora: All right.

"Dasti: Okay?

"Vancora: All right, Frankie.

"Dasti: Right.

"Vancora: Bye.

"Dasti: Bye.

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DIRECT EXAMINATION

BY MR. PUCCIO: (cont.)

Q On that date, that's Tuesday, January 5th, 1971, between the hours of 8:00 p.m. at night and midnight, was a taperecording made of a conversation between Mr. Oddo and Mr. Vanacora and Mr. Dasti?

A Yes, sir.

Q And was that a call placed by Mr. Oddo and Mr. Oddo and Mr. Vanacora again at the Victoria Sporting Club in Montreal?

A Yes, sir.

Q That would be conversation No. 8; is that correct?

A Yes.

MR.PUCCIO:Will you please play that.

(Trancription of Call No. 8 follows:)

"Palmieri: Hello.

"Operator: Thank you.

"Oddo: Hello, Frank, please?

"Palmieri: Frank. Yeah.

(voices in background)

"Dasti: Hello.

"Oddo: Hello, Frank.

"Dasti: How are you?

A 1794

Couture - direct

"Oddo: How are you?

"Dasti: Yeah, where are you?

"Oddo: Well, I'm still here.

"Dasti: You're still there.

"Oddo: Yeah, look it, Frank.

"Dasti: Yeah.

"Oddo: Could you go out nad call me on this number?

"Dasti: There's no question, I can't go out to call you on that number.

"Oddo: Oh, no?

"Dasti: No, because I'm waiting for a phone call.

"Oddo: Oh, Isee. Well, look, eh, all right, wait, speak to Tony.

"Dasti: Yeah.

(Voices.)

"Vanacora: Oh, yeah, hello, how are you, Frank?

"Dasti: Yeah, ok.

"Vanacora: Listen.

"Dasti: Yeah.

"Vanacora: Is that available tomorrow, or what?

"Dasti: No, no, it's available in a couple of days, Tony.

"Vanacora; Oh, all right, because I got somebody, eh.

"Dasti: Listen, Tony, let me tell you one thing. I am not stuck. I'm trying to give you a break, you know.

"Vanacora: Yeah.

"Dasti: If you can't do it (incomprehnsible.)

"Vanacora: No, I could do it, that's not --

"Dasti: All right. so.

"Vanacora: I got the party with me.

"Dasti: All right.

"Vanacora: Finished making all the arrangements.

"Dasti: Yeah, all right, make the arrangement, because I don't wanna talk on the phone, don't you understand.

"Vanacora: All right, well.

"Dasti: That's why I say if you wanna come'in, fine.

"Vanacora: But when eh, in other words, I could tell these people on a couple a days.

"Dasti: Yeah, in a couple of days, everything will be all right.

"Vanacora: Ok.

"Dasti: All right?

"Vanacora: All right, then eh, so we eh, I'll, we'll, we'll arrange to leave tomorrow then.

"Dasti: There's no problem, Tony.

"Vanacora: Okay.

"Dasti: You know, I, all I, eh.

"Vanacora: We'll sit down and have a little conversation.

"Dasti: That's right. I don't want to start conversation on the phone and this and this and that.

"Vanacora: Right, right.

"Dasti: If you come in, I'll show you the suits.

"Vanacora: Okay.

"Dasti: I'll sit down and if the guy is ready--

"Vanacora: Yeah, he's eh.

"Dasti: He wants to be my partner, he's okay. If not --

"Vanacora: He wants to know if it's the latest cuts and everything.

"Dasti: That's right.

"Vanacora: Okay.

"Dasti: Okay?

"Vanacora: All right, Frank.

"Dasti: No harm done, you know.

A 1797

"Vanacora: Okay, be well (laughingly).

"Dasti: Okay, buddy (laughingly.)

"Vanacora: All right, buddy.

"Dasti: Are you gonna leave tomorrow?

"Vanacora: Yeah.

"Dasti: Okay.

"Vanacora: All right, buddy.

"Dasti: Fine, bye, bye."

THE COURT: I don't want you to look at the next telephone conversations.

Please close the books, if you don't mind.

JUROR No. 1: I didn't hear you, your Honor.

THE COURT: Close the books.

MR. PUCCIO: Your Honor, I have no more questions of Mr. Couture at this time but I'd ask to recall him at different occasions during the trial.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Couture, if I ask youany questions that you don't understand completely, whether because I asked them incorrectly or perhaps my English is not proper, could you please tell me so that I can ask it in a different way.

A 1798

A Yes, sir.

Q You indicated that you were more or less in charge of the physical work on the Vegas Projects?

A Yes, sir.

Q And --

MR. IANNUZZI: May I just have a moment to get anothe- document, your Honor?

THE COURT: Yes.

Q When I refer to the Vegas Projects, that was -- Vegas was the code name that you used in the Police Department concerning this particular investigation; is that correct?

A Yes, sir.

Q And the word Vegas was chosen, I imagine because in fact this was an investigation concerned with gambling?

A Yes, sir, it was chosen by the Deputy Director Patenaude.

Q It was basically and started out and the purpose of it was to gather information concerning gambling?

A Yes, sir.

Q And was it your suspicion that in fact the Victoria Sporting Club was used for gambling?

A Yes, sir.

A 1799

Q And Mr. Dasti had something to do with gambling?

A Yes, sir.

Q And Mr. Cotroni had something to do with gambling, or no?

A At the Victoria Sporting Club.

Q The reason for his phone being tapped, that he had something to do with gambling at the beginning of the Vegas Project?

A I have to tell you, sir --

THE COURT: If you can't answer that yes or no, I will excuse the jury.

Can you answer that yes or no?

Well, because of the hesitation I will excuse the jury.

(The jury withdrew from the courtroom at 10:52 o'clock a.m.)

THE COURT: How would you answer that question?

THE WITNESS: The main object of this project was to close up the 837 which was the Victoria Sporting Club, because of the gambling that was going on there. After a while we received a lot of information on other matters and at that time, myself, Mr. Patenaude decided to make some wiretaps to get

other kind of information, like narcotics and a few other things.

Q And would it be --

THE COURT: What are the few other things?

THE WITNESS: It would be police corruption, political corruption.

THE COURT: You are forewarned, Mr. Iannuzzi, if you ask questions --

MR. IANNUZZI: I won't go into it.

THE COURT: I know but your questions may require an answer concerning criminal activities outside this indictment and of course, you take the risk when you ask the question. So I think you should be very careful in framing your questions.

Don't supply information outside of gambling or narcotics and, the narcotics involved here, unless the questions specifically ask for it.

In other words, don't volunteer any information.

THE WITNESS: All right.

MR. IANNUZZI: May I, with Mr. Puccio, speak to your Honor on the record but at side bar.

(Side bar discussion out of hearing of the spectators and the witness.)

MR. IANNUZZI: I just came across in the tape

and it will come up at a later tape and I think it is irrelevant that Cotroni on the phone with Dasti just said he came from a whore house.

I wonder if we could change that to a steam bath. Does it make any difference if he came from a whore house or a steam house. Just to save him embarrassment.

THE COURT: I don't care about embarrassment. If he is charged with narcotics how embarrassed can he be. That isn't what concerns me. What concerns me is irrelevant material.

If you can black it out, do it.

MR. PUCCIO: Let me check. There has already been testimony elicited on cross-examination, a big family man -- Mr. Cotron going to Acapulco -- that's not the reason for it.

THE COURT: That's a good reason for not putting it in.

Mr. IANNUZZI: The question is: "How come you are late?" And he said, "I got up late because I went to a whore house."

MR. PUCCIO: I will look at the conversation.

MR. IANNUZZI: I don't know which one it is. I will look for it.

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THE COURT: Incidentally, I think there is very little to the claim that the conversation between husband and wife should be suppressed but I just don't want to make that decision now.

If privacy is invaded and it is on probable cause,even under our statute, if it happens to be a husband and wife, so be it.

What are we talking about.

MR. KLAR: It doesn't make it public --

THE COURT: Of course it makes it public if it is proper. Are we talking about Canadian law or United States law now?

Do I have to go into what the Canadian law is, if they have a privilege? Do they have a privilege?

MR. IANNUZZI: May I suggest this on behlaf of Mr. Klar, first of all, I think there are privileges under our law. Secondly, why should we get involved with Canadian law. Dasti, it will say, made a trip to New York. We will concede that.

Evidentiarywise there will be no problem with New York.

MR. PUCCIO: In that case we will offer it. It has already been received.

MR. IANNUZZI: It makes no difference to the

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extent --

THE COURT: Makes no difference to whom?

MR. IANNUZZI: To Mr. Puccio.

THE COURT: Apparently, it does.

MR. IANNUZZI: What I am suggesting to that the evidence he wants to bring out on the conversation between husband and wife, there are privileges between husband and wife, doctor and patient, attorney and client all of which are sacred in our wiretaping.

THE COURT: I think I have a Supreme Court case which says in effect, once there is probable cause to intercept a wire conversation, it also includes criminal activity between a lawyer and client.

MR. IANNUZZI: Oh, yes, but he is not claiming there was criminal activity between husband and wife. If he is that's different.

There is no criminal activity between the two.

MR. PUCCIO: If we wanted to go to the trouble we could prove it.

THE COURT: We are talking about a more serious and sacred privilege, in my opinion, than the one between husband and wife. We are talking about one between a lawyer and his client. The husband and wife privilege has been whittled down so much that

it practically doesn't exist.

But I will go into it. You better do some research on it now.

MR. PUCCIO: We will probably get to these today. We are going to move very quickly now.

I requested one of my student assistants to get a couple of cases.

(continued next page.)

(The following occurred after a bench conference.)

THE COURT: You may proceed.

MR. IANNUZZI: Thank you, sir.

CROSS-EXAMINATION

BY MR. IANNUZZI (Cont'd):

THE COURT: Would you like to rephrase the question?

MR. IANNUZZI: Yes.

Q Your investigation, sir, began with an investigation toward the end of the closing up of the Victoria Sporting Club; is that correct?

A Yes, sir.

Q And was the Victoria Sporting Club supposed to be a social club?

A They had a charter for a social club.

Q They had a charter for a social club; correct?

A Yes, sir.

Q However, you suspected there was gambling going on there?

A Yes, sir.

Q And toward that end you initiated the Vegas projects?

A Yes, sir, and Mr. Patenaude --

Q Well, the Police Department.

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A Yes.

Q In November of 1970 you or someone installed for the Police Department --

MR. IANNUZZI: Withdrawn.

Q When I say you, I mean the Police Department; all right?

A Yes, sir.

Q Except if I mean you personally, which I will make clear to you. All right?

A Yes.

Q So in November of 1970, November 2nd to be exact, some equipment was installed to intercept telephone calls at Mr. Cotroni's house; correct?

A Yes, sir.

Q And two phones in his house; correct?

A Yes.

Q And had you ascertained that in fact that was all the phones that were in the house, two?

A Yes, sir.

Q So all the phones in Mr. Cotroni's house were tapped as of November 2, 1970?

A Yes.

Q And the taps stayed on the line until April 24, 1971?

MR. PUCCIO: May I point out we stipulated that the second phone was wiretapped as of January 9, according to the stipulation.

MR. IANNUZZI: All right. Let me see that.

Q All right. The second phone was wiretapped and installed on January 9th; is that correct?

A Yes, sir, 1971.

Q And they both were -- well, the first one was installed and operated until April -- well, they both operated until April of 1971; correct?

A Yes, sir.

Q All right. Now in addition to both telephones in the Victoria Sporting Club being tapped, the two telephones in Mr. Dasti's home were tapped; is that correct?

A One telephone -- two at the Victoria Sporting Club and one at the --

Q Oh, there was a different number. In other words, there was a first and second number, but both of those lines one after the other were tapped; is that correct?

A Yes, sir.

Q One at a time, though?

A What do you mean?

Q In other words, the first phone was installed -- the first phone was there and while it was there it was tapped.

When he got the second number the first one was not in existence any more, so the second one was tapped; is that correct?

A Are you talking about the Victoria Sporting Club or the residence?

Q No, sir. I am talking about Mr. Dasti's home.

A Mr. Dasti -- the project started the 20th of October, 1970.

Q Yes.

A At a certain time Mr. Dasti made a phone call to Bell Canada to have his number changed.

Q And it was?

A Yes, sir.

Q So when it was changed he didn't have two phones. He had one phone but it had a different number?

A Yes.

Q So that number was also tapped?

A We didn't change the wire line.

Q Oh, I see. You didn't have to change your wire. It was just that his number was different?

A Yes. I will explain it --

Q Let me ask it. The tap stayed the same and you could intercept messages over his instrument whatever the number was; is that right?

A Yes.

Q And that was in operation until March of 1973?

A Yes, sir.

Q And I believe you testified in addition that you installed or there were installed two taps on two different telephones in a place called the Salon Pierre; is that correct?

A Yes, sir.

Q And also there was a tap on the telephone of a fellow named Mendolia?

A Yes.

Q There was a tap on a phone of a fellow by the name of Guido Orsini; is that correct?

A Yes.

Q Also there was a tap on the telephone in a hotel in a kind of emergency basis; correct?

A Yes.

Q In other words somebody ran in there, went down to the basement, hooked onto the phone for fifteen minutes on January 16, 1971?

A Yes, sir.

Q And these machines you testified were automatic; is that correct?

A Yes, sir.

Q The recording machines?

A Yes, sir.

Q And what that means is that that wasn't anybody who had to operate the machine in order for them to record?

A No, sir, except for the call that was intercepted at the Laurentian.

Q Except for the one at the hotel, the emergency one, the one that was done very quickly; is that right?

A Yes, sir.

Q All the others were done automatically?

A Yes, sir.

Q Now, nobody was there at the machines listening at the same time that the recordings were being made?

A Nobody, sir.

Q And 24 hours a day if anybody called on those machines, the sound would activate that machine?

A The sound or the starters.

Q Whichever?

A Yes, sir.

Q In other words, 24 hours a day for a year or year and a half, in some cases over two years, every single conversation over that telephone line would be intercepted?

A Yes, sir.

Q And be recorded?

A Yes.

Q Right?

A Yes.

Q Now, you indicated that after this was done you would take the tapes from the recording machines, and this wasn't just one recording machine, but each separate tap had separate recording machines?

A Yes.

Q So at one time there might be nine, ten, recording machines just in this investigation?

A Yes, sir.

Q And your job was actually to take the tapes from the machines and to listen to them; correct?

A Yes, sir.

Q And of course youhad help, but basically you were in charge of the tapes; correct?

A Yes, sir.

Q And you would listen to every single tape?

A Yes, sir.

Q When I say every single tape, you listened to every single tape on every single machine?

A Each single conversation that happened on those projects.

Q You listened to every tape all the way through?

A Yes, sir.

Q I think you used the expression yesterday, you were taking off what was the best for us, that is, what you thought was incriminating?

A Yes, sir.

Q Correct?

A Yes, sir.

Q And if the incriminating part was what you considered to be significant, you would hold on to the recording itself?

A Yes, sir. We made a copy of the part --

Q Let me see if I can clarify that --

THE COURT: Excuse me. The jury may be excused for a few moments.

(The jury thereupon retired from the courtroom and the following occurred in the absense of the jury.)

THE COURT: I am only saying this to forewarn you because I can see possibly in redirect examination you might make the same complaint when I permitted the Government to show an association between Mr. Cotroni and Mr. Orsini.

And if you in your cross-examination show that out of all of the thousands of tapes only the seventeen which are now introduced were retained as being of

any value as to any criminal activity of this defendant, I think that the Government would have a right to show that more tapes than these seventeen were retained.

Now, I don't know whether that is your purpose, and I don't know whether Mr. Puccio would move in that direction. But I just want to tell you that that is a possibility.

I will not permit an untrue picture to remain on the record.

MR. IANNUZZI: I am not going to do that.

THE COURT: I do not say you are but I just want to forewarn you.

MR. IANNUZZI: However, I can go into this particular transaction.

THE COURT: Oh, surely.

MR. IANNUZZI: That is all I am going to do.

THE COURT: I think it is proper to show the number of conversations and everything else. But if you go to the jury in summation, or even if you don't go to the jury in summation but if you have the right to go to the jury in summation and say two thousand conversations were taken and only seventeen were kept, and they are trying to paint this fellow as a criminal--

MR. IANNUZZI: Oh, I am not going to do that.

THE COURT: All right, as long as we understand each other.

MR. IANNUZZI: But I appreciate your fair warning.

(The jury thereupon returned to the courtroom.)

THE COURT: Well, I think that I will give the jurors some good news. We will suspend today at about 4:15. That is only because I have a doctor's appointment. I have postponed it for six months. I called him today and I asked him again and he said if I don't keep it today it means two more months. So I am going to try to keep that appointment. I am sorry. I have to suspend early.

MR. IANNUZZI: May I proceed again?

THE COURT: Yes.

B A R N A R D C O U T U R E, having been previously sworn, testified further as follows:

CROSS-EXAMINATION

BY MR. IANNUZZI (Cont'd):

Q Mr. Couture, I think before we had the recess I was asking whether or not in fact you after -- in other words, each day you listened to all the tapes?

A Yes, sir.

Q From beginning to end?

A Yes.

Q To see if there was anything on them that had been recorded?

A Pardon me?

Q You listened to see if there was anything there that had been recorded, of course?

A Yes, sir.

Q And I think you indicated that if the call was very important, that is to say, if it was determined by yourself that it was of great significance in connection with this narcotics transaction, that they were kept for --

MR. IANNUZZI: Withdrawn.

Q If these conversations had some great significance, that is, this cocaine transaction, you would retain the recording by transferring it to another tape; correct?

A Yes, sir.

Q And if it had perhaps some significance you would at least make a log of it; correct?

A Yes.

Q What I mean by a log is that you would listen to the conversation and you would put down an outline, so to say, a little paragraph describing what was contained in the conversation?

A Yes.

Q Correct?

A Yes.

Q You would make it up in your own words, but basically you would report what you heard?

A Yes, sir.

Q If it was totally nonpertinent to the cocaine transaction you would not bother keeping a tape or a log; correct?

A Yes, sir.

Q And I think you classified it into three categories, some of which transcripts would be kept, word for word transcripts of the conversation, and those would be considered really important conversations; correct?

A Yes, sir.

Q Some for which logs were kept, they had some significance but they were not that important, and you would just put down a memo or reminder to yourself or to the other members of the Department who were interested; correct?

A Yes, sir.

Q Calls which had no significance had no recordation in the log; correct?

A Correct, sir.

Q Now, all the master tapes --

MR. IANNUZZI: Withdrawn.

Q Now, to use your phrase, all the original tapes have been destroyed?

A Yes, sir.

Q When I say destroyed, the actual tape may not have been thrown away, but the conversations, everything that was recorded has been destroyed --

A Yes.

Q -- or erased?

A Yes.

Q It no longer exists?

A Yes.

Q And so these tapes here are not the original tapes but copies of the original tapes?

A Yes, sir.

Q And you made these copies by playing from one machine to the other; correct?

A Yes.

Q You played as much as you wanted to, you stopped, and when you got to a conversation you didn't want, you spliced that out, would go to the next conversation and keep going; is that correct?

A I don't really understand your question.

MR. IANNUZZI: I will rephrase it.

Q You listened to the tape. You would hear the conversation you wanted to record. So you would play one machine and then another machine at the same time to record it?

A Yes.

Q When you got to the end of it and youfelt you didn't want any more of that particular tape that day you would stop the second machine --

MR. IANNUZZI: Withdrawn.

Q Then when you got to the point where you finished with that conversation you stopped the second machine and listened further to the original tape, when you got to the second conversation --

A Well --

MR. IANNUZZI: Well, go ahead if you want to stop me.

A (Cont'g) What I did, sir, I had the tape -- if I have got a tape that I want to retain I am going to make a log of it.

Q Yes.

A Then I will take the tape, bring it on another machine and make a copy of it on the master tape.

Q Well, let me just -- would you repeat that last part there? When youwere making a log you would take the

tape, put it on a different machine and play it, stopping it and starting it, type out your log?

A I am talking about making a copy. I am retaining the tape --

Q A conversation?

A Yes, a conversation.

Q Let me see if I can do this with you. You take a tape from the machine that recorded it, you would take it off that machine?

A Yes, sir.

Q Because actually that machine was still recording possible conversations, so you would put a new tape on the recording machine?

A Yes.

Q You would take the original tape and put it on a playback machine; correct?

A Yes.

Q You would listen to it?

A Yes, sir.

Q If you got to a conversation that you were interested in, you would listen and type a log or you would play it at the same time that you recorded it on the second machine or third machine?

A Not exactly.

Q Well, go ahead.

A I would listen to the tape first. Then I will type up a log of the conversation.

Q Yes.

A Then after I am going to take the tape and if I want to retain it I will play it back on another machine, make a copy of it on the master tape.

Q All right. So basically what you are saying is that you would play the tape and make the log first, and then after making the log, if you wanted to save the conversation itself, then you would make another copy on a master tape?

A Yes, sir.

Q But the master tape is not the original tape; it is a series of conversations that had been taken from other tapes and retained; correct?

A Yes, sir.

Q These conversations on the master tape -- by the way, we are listening to a master tape you say; correct?

A Yes.

Q This master tape consists of copies of the original tape?

A Yes, sir.

Q And I think I asked you that, but you erased

all the important things then -- actually you erased all of them?

A On the original.

Q You erased all of those?

A Yes, sir.

Q So I presume it is fair to indicate that all of the unimportant things had been erased and there is no record of them at all?

A Yes, sir.

Q Or at least what you thought was important?

A Important or unimportant.

Q What you thought was important you kept. What you thought was unimportant had been destroyed?

A Yes, sir.

Q Now, between December 19th and December 31, 1970 did you make a log --

MR. IANNUZZI: Withdrawn.

Q Did you make any record of conversations between Frank Cotroni and Frank Dasti from Mexico City?

A Can I use my notes?

Q Surely. In connection with narcotics of course. I am not interested in Chinese food or anything like that. But did you make any recording between December 19 and December 31, from Mexico City, concerning a cocaine transac-

tion? And that is between Cotroni and Dasti.

THE COURT: That would be December 18th and December 31st.

MR. IANNUZZI: December 18th, December 19th, and December 31st.

THE COURT: He need not look before December 18th or after December 31st. Am I right?

MR. IANNUZZI: Yes, sir, assume that is the initial date, December 18th or December 19th. That is the date that this supposedly initiated.

Q By the way, Mr. Cotroni, I just asked you with reference to Mr. Dasti; in other words, Mr. Dasti's telephone. Do you understand?

A Yes, sir.

(Witness examines documents.)

A (Cont'g) No, sir, not at all. There was no conversation or call between Mr. Dasti and Mr. Cotroni between the 18th of December and the 31st of December.

MR. IANNUZZI: Now, if your Honor please, I looked at the indictment. The indictment says the conspiracy started December 1st, although I think --

THE COURT: I don't want a recital.

MR. IANNUZZI: Oh, I am sorry.

Q Now, Mr. Couture, when you looked through those

did you indicate that there were no conversations between Mr. Cotroni and Mr. Dasti from the 18th or 19th of December to the 31st of December?

A Yes, sir.

Q None at all?

A None at all. Not that I know of at the Vegas project.

Q Yes, I understand. Now, let me ask you this: When you looked through them did you also ascertain -- because I didn't ask you and I am sorry, and I hope that you will recollect -- were there any between the 1st of December and the 18th of December from Mexico City?

A I will have to go through it, sir.

MR. IANNUZZI: If your Honor please, can we have a concession, at least to save time, that in fact although the indictment says December 1st the conspiracy allegedly began about the 18th or 19th when Mr. Cotroni allegedly met with Mr. Catania?

THE COURT: The indictment says on or about.

MR. PUCCIO: We have to use approximate dates, your Honor.

THE COURT: What is the concession you want?

MR. IANNUZZI: Just that rather than -- I just wanted to save the witness's time from going through

the logs from December 1st to December 18th.

THE COURT: Do you agree that there is no evidence of wiretap conversations concerning the matters in the indictment between December 1st and December 18th?

MR. PUCCIO: Well, it all -- I would have to get a clarification of the matter, your Honor.

MR. IANNUZZI: All right, Judge, I withdraw the application for concession.

Q Mr. Couture, would you please be kind enough to look through the documents again -- I'm sorry this happened and I will ask you more clearly in the future -- will you please determine whether or not there were any conversations between Frank Cotroni in Mexico City and Frank Dasti on Frank Dasti's telephones between the 1st of December 1970 and the 31st of December 1970 concerning narcotics -- cocaine transactions?

THE COURT: Would that include any conversations rather than only those between Mexico City and Canada?

MR. IANNUZZI: Pardon me?

THE COURT: Would that include any telephone conversation taps?

MR. PUCCIO: If we are talking about calls

between Mexico City and Montreal, then that is something else.

MR. IANNUZZI: Well, that is what I was talking about before. But I can expand it if you want me to.

THE COURT: No, it is only if you want to, Mr. Iannuzzi.

MR. IANNUZZI: Well, my original question had to do with calls from Mexico City.

THE COURT: All right, that little bit, I understand, Mr. Puccio is ready to concede.

MR. IANNUZZI: Well, that will solve my problem a little.

THE COURT: All right.

(Continued on next page.)

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MR. PUCCIO: All right, we will concede that, your Honor, subject to our checking it out, Mr. Couture checking it out, that is calls between Montreal and Mexico City before the 8th.

THE COURT: Yes.

MR. IANNUZZI: Mr. Iannuzzi, I don't know what you said, before the 8th?

MR. PUCCIO: Before the 18th.

I will concede at this point that there are not any but that one.

MR. IANNUZZI: From December 1st, the 1st of December to the 31st of December?

MR. PUCCIO: Yes.

MR. IANNUZZI: All right, sir.

Q And, Mr. Couture, in checking over the logs, did you ascertain whether there were any conversations in those logs from the 1st of December to the 31st of December concerning this cocaine conspiracy between Mr. Cotroni and Mr. Dasti?

A If I am certain there were no phone calls between Mr. Dasti and Mr. Cotroni?

Q Concerning the cocaine transaction.

A From what I can tell you there was no phone call between the 18th and the 31st of December.

Q All right. Let me limit it to that, there was absolutely no telephone call between Frank Cotroni and Frank Dasti concerning the cocaine transaction that you have?

A Yes, sir.

Q And if you don't have it, it wasn't there?

MR. PUCCIO: I object to that.

THE COURT: Sustained as to form. You are talking about taped conversations, is that correct, is that what you are talking about?

MR. IANNUZZI: Of course.

THE COURT: There aren't any, you don't have any taped conversations any place concerning cocaine in telephone conversations between Dasti and Cotroni; isn't that so?

THE WITNESS: Yes, sir, between the 18th of December and the 31st of December, 1970.

THE COURT: Yes, in that period. All right.

Q Well -- withdrawn.

And you don't have a recording of any conversations; correct?

You don't have a recording of any conversation concerning cocaine?

A No, sir.

Q You don't have a log concerning any transaction

concerning cocaine between Dasti and Cotroni?

A At this particular time, no, sir.

Q That is the time that I am talking about, sir.

A No, sir.

Q And if there had been a conversation about a cocaine transaction, would you have thought it important enough to record?

A Yes, sir.

Q And if there had been a conversation about a cocaine transaction, would you have thought it important enough to make a log?

A Yes, sir.

Q If you don't have a log and you don't have a recording, would it be fair to say that there weren't any such conversations over the telephone?

MR. PUCCIO: I object.

THE COURT: May I have the question, Mr. Karr?

(The previous question was read.)

THE COURT: I will allow that.

A Yes, sir, I would have the conversation, I would have the log.

Q And if you don't, would it be fair to say that there wasn't any conversation?

A That I recall, yes, sir.

Q And of course you are aware of the fact, I assume, that Mr. Cotroni was in Mexico City between the 18th of December and the 31st of December; correct?

A Yes, sir.

Q And Mr. Dasti was in Montreal, Canada, between the 18th of December and the 31st of December; correct?

A Yes, sir.

Q Now, during the period of time of December 18th to December 31st, did you have any recordation of a telephone conversation between Frank Cotroni and recorded on the telephones in the Victoria Sporting Club, not Dasti's home, the Victoria Sporting Club from Mexico City?

MR. PUCCIO: That has already been asked and answered.

MR. IANNUZZI: Oh, no, sir.

THE COURT: I will allow it.

MR. IANNUZZI: I asked only about Mr. Dasti's home phone.

THE COURT: I have allowed it, youhave won the point, Mr. Iannuzzi.

MR. IANNUZZI: Sometimes I get so worked up I don't even hear your decision.

THE COURT: Yes, I know that.

MR. IANNUZZI: Thank you.

Q Are there any recordings of telephone calls from Mr. Cotroni recorded on the two telephones at the Victoria SportingClub between December 18th and December 31st from Mexico City?

A No, sir.

Q Not a recording, not a log, not anything; right?

A Yes, sir.

Q Now, are there any recordings between the 18th of December and the 31st of December on the two telephones at the Salon Pierre from Mr. Cotroni in Mexico City concerning a cocaine transaction?

A No, sir.

Q No recordings?

A No, sir.

Q No logs?

A No, sir.

Q No nothing?

A No, sir.

Q Are there any telephone calls recorded from Mr. Cotroni in Mexico City from the 18th of December, 1970 until the 31st of December, 1970 to a person named Santo Mendolia or Mendolia (pronounced differently) concerning a narcotics transaction or cocaine transaction?

A Mr. Cotroni did call at the Mendolia residence

and talked with Santo Mendolia and Orsini.

Q Yes, he did?

A Yes.

Q And you did get the conversation, you made a recording of the conversation?

A Yes.

Q You made a recording, you mean to say, a tape?

A Yes, sir, I did.

MR. IANNUZZI: May I know what page that is on?

A This is on Vegas 9, which is Mendolia's residence, on pages 5 and 6 -- page 6, I am sorry.

Q Is that a call made on Vegas 9 on the 24th of December?

A No, sir, it should be between-- it is either on the 14th or 15th of December.

Q The 14th or 15th of December from Mexico City?

A It is an incoming call to Frank Cotroni in Montreal.

Q From Mexico City?

Is it your testimony that Frank Cotroni was in Mexico City on the 14th of December?

THE COURT: Objection sustained.

MR. IANNUZZI: I am asking the witness if that is his testimony.

A It is not from Mexico.

Q It is not from Mexico?

A No, sir.

Q May I see what you are looking at?

A Yes.

Q So that we can all find it.

(The witness indicated a document.)

THE COURT: What are you referring to?

THE WITNESS: It is Vegas 9, this is the Mendolia residence.

THE COURT: Would you have the exhibit number, Mr. Puccio?

MR. PUCCIO: We are looking for it now.

THE COURT: Well, you have the exhibit number on it outside of the folder.

MR. IANNUZZI: We have that.

THE COURT: I want it for the record.

MR. IANNUZZI: What is the exhibit number? It isn't an exhibit in this case.

THE COURT: It is marked for identification, isn't it?

MR. IANNUZZI: I don't think so, Judge, it wasn't marked in this trial, Judge.

MR. PUCCIO: The logs haven't been marked at

this trial.

MR. IANNUZZI: It was No. 7 at the hearing.

MR. PUCCIO: Wait a second.

Did we skip over these numbers?

THE CLERK: No.

THE COURT: It is 17 for identification.

MR. PUCCIO: At the trial as well?

THE CLERK: Yes.

THE COURT: All the exhibits previously marked for identification are marked for identification in this trial.

MR. IANNUZZI: All right, Judge.

BY MR. IANNUZZI:

Q May I see your log, please?

(Document handed to Mr. Iannuzzi.)

Q May I have the place?

A 15.

Q That is what you are talking about?

A That is another one (indicating).

MR. IANNUZZI: May I have just a moment? We seem to have difficulty.

(At this point Mr. Iannuzzi began conferring with the witness.)

THE COURT: I don't want any private conversation,

if you are going to have a private conversation I will excuse the jury.

MR. IANNUZZI: No, I just want the place.

THE COURT: Just point out the place in the log, nothing more.

MR. IANNUZZI: I have a difficulty with this in the sense, Judge, that it is in French, it has never been translated by the Government as far as I know.

THE COURT: Nor by the defendant, you had these logs.

MR. IANNUZZI: No question about that.

THE COURT: Yes.

BY MR. IANNUZZI:

Q This conversation that you speak about was on what date?

A It is either on the 14th or 15th of December, '70.

Q Either on the 14th or 15th?

A Yes, sir.

Q But it certainly wasn't from Mexico City?

A No, sir.

Q All right. Now, was there a phone conversation between the 18th and the 31st from Mexico City between

Frank Cotroni and Mendolia?

A Yes, sir, there was.

Q What date was it?

A It was on the 26th of December, '71.

Q On the 26th?

A Of December, '70, I am sorry.

Q 1970?

A Yes, sir --

Q And --

A It is an outgoing call from --

Q Outgoing from where?

A From Mr. Mendolia's residence.

Q And he called Mexico City?

A He called an Acapulco number, 42069, and the person that answered said, Motel Ariatant.

Q Yes. Well, let me, before you get into that conversation, that was a call from Cotroni in Mexico and somebody in Montreal?

A Yes, sir.

Q Although Cotroni didn't make the call, somebody else made it to him?

A Yes, sir.

Q What was said?

A Cotroni asked him if there was something new,

and Mendolia answered no ---

Q Go ahead.

A Cotroni tells him that Carlil will call him tomorrow --

Q Go ahead.

A -- and Cotroni tells him to buy either La Press or the Montreal Matin.

Q Are those newspapers, by the way?

A These are the newspapers.

Q Yes, sir, what did he tell him?

A And to check the share value of the Resort Development Company in the Canadian Stock Exchange page.

Q What else?

A This is it, sir.

Q You mean Cotroni just asked him to check his stock?

A Yes, sir, and he also asked him if there was something new and Mendolia's answer to him was no.

Q That was the whole conversation?

A Yes, sir.

Q Besides this conversation about the Research Development Corporation or whatever it was, on the Stock Exchange of Canada, are there any other conversations between Cotroni and Mendolia between December 18th and December 31st?

A No, sir.

Q Pardon me, sir?

A No, sir.

Q No other conversations except the one about the stock market?

A Yes, sir.

Q And you didn't make a record of that conversation?

A No, sir.

Q So it wasn't something that you considered very important?

A Correct, sir.

Q You would make a log of it if it might be important?

A Yes, sir.

Q Now, between the 18th of December, 1971 -- '70 -- between the 18th of December, 1970 and the 31st of December, 1970, are there any telephone calls from Mr. Cotroni to Mr. Orsini from Mexico City concerning a cocaine transaction?

A No, sir.

Q Not a recording?

A No, sir.

Q Not a log?

A No, sir.

Q Not anything?

A No, sir.

Q So would it be fair to say that the only telephone call that you have -- withdrawn.

And by the way, all these machines, all of them were working 24 hours a day?

A Yes, sir.

Q You didn't have to be there to do the recording?

A No, sir.

Q That is on all the tapes for all those days and for all the conversations that were made Frank Cotroni called or didn't call once, did he?

A No, sir.

Q He never called from Mexico City?

A No, sir.

Q And somebody called him from Montreal once and talked about the stock market and something new?

A Yes, sir.

Q And this conversation in reference to -- withdrawn.

This first conversation, Government's Exhibit 39, which is supposedly a translation, that you thought was of grave significance and it was recorded on what date?

A It was recorded on --- between 4:00 p.m. December 30th and 4:00 p.m. December 31st.

Q And you say that that conversation had something to do with cocaine?

A Yes, sir.

Q Cotroni, by the way, was not a party to that conversation?

A No, sir.

Q And the second conversation, on the 31st of December, that wasn't between Cotroni and anybody else, was it?

A Between Oddo and Dasti.

Q I asked you, but not Cotroni?

A No, sir.

Q Now, there was a phone call made -- withdrawn.

The third conversation -- withdrawn.

You say the second conversation had something to do with the cocaine transaction?

A Yes, sir.

Q And Cotroni was not a party to that, either?

A No, sir.

Q And the third conversation was on the 1st of January; correct?

A Yes, sir.

Q And Cotroni wasn't a part of that conversation, was he?

A No, sir.

Q Now there is a fourth conversation where Mr. Dasti speaks to Mr. Cotroni; correct?

A Yes, sir.

Q And you had a tape on Mr. Dasti's wires and you had a tape on Mr. Cotroni's wires?

A Yes, sir.

Q Right?

A Yes, sir.

Q And this tape was taken from Mr. Dasti's wires, I understand?

A Yes, sir.

Q Don't you have a second recording of it?

A We didn't make two copies of it, we received the conversation on each wire at the same time, we had it on Mr. Dasti's and we had the other on Mr. Cotroni's.

Q You had it on both?

A Yes, sir.

Q But you destroyed one completely?

A Yes, we only kept one.

Q You didn't keep a call that you say was recorded on Cotroni's wire?

A Because it was the same.

Q I'm asking you, yes or no.

A No, sir.

Q You destroyed it?

A Yes, sir.

Q The only recording there is is one made from Dasti to somebody that you say is Cotroni?

A Yes, sir.

Q Did you have an opportunity, sir, to go to the Bell Telephone Company and determine long-line calls, that is to say-, toll calls to Mexico City?

A No, sir.

Q So you don't have any evidence in fact that any calls were made except for these here (indicating)? Except for these, other than these conversations, were there any other calls made to Mexico City?

A Personally, no, sir.

Q Would the Quebec Police Force have it?

A Maybe, sir, I don't know.

Q Do you know if they have it?

A I don't know, sir.

Q In all your investigations in this case have you ascertained whether it exists or not?

A I don't know, sir.

Q You don't know if it exists or you have never come across it?

A I didn't check it, I don't know if there is.

Q Did you ever hear of it?

A No, sir.

Q Pardon me?

A No, sir.

MR. IANNUZZI: Thank you.

THE COURT: Mr. Klar?

MR. KLAR: I have no questions, your Honor.

THE COURT: Any redirect, Mr. Puccio?

MR. PUCCIO: Yes.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Now, Mr. Couture, during cross-examination you were asked about telephone calls between Mr. Dasti and Mr. Cotroni between December 18th and December 31, 1970. Do you recall the questions that Mr. Iannuzzi asked you about those?

A Yes, sir.

MR. PUCCIO: May I have a minute, your Honor?

THE COURT: Yes.

Q And that would be calls between Montreal and Mexico City- that you were asked about; is that correct?

A Yes, sir.

Q Now during that time period a wiretap was in operation or two wiretaps were in operation at the Victoria Sporting Club; is that correct?

A Correct, sir.

Q And during -- between the 18th of December and the 31st of December there was also a wiretap on telephone number 514-256-7978 located at the residence of Frank Cotroni in Montreal; is that correct?

A Yes, sir.

Q - Now, Mr. Cotroni's other telephone at his residence, however, was not being wiretapped at that time; is that correct?

A Correct, sir.

Q So in response to those questions you checked your log for really three telephones?

A Right, sir.

Q And, I am sorry, additionally the defendant Mr. Dasti's residence was also being wiretapped at that time, the telephone of Mr. Dasti's residence was also being wiretapped; is that correct?

A Yes, sir.

Q And that would be 514-488-0339?

A That is it, sir.

Q Now, later on in the investigation, during January, Mr. Dasti --

MR. PUCCIO: May I just have a minute?

Q On January 16, 1971 there is a conversation which we will get to later on --

MR. IANNUZZI: If your Honor pleases, I would object to that.

MR. PUCCIO: That is already in evidence.

MR. IANNUZZI: Since we haven't gotten to it, it is improper redirect examination.

THE COURT: Overruled; I will allow it.

MR. IANNUZZI: I couldn't cross-examine about it. It is totally improper redirect.

THE COURT: Overruled.

BY MR. PUCCIO:

Q On January 16, '71, Mr. Dasti received a telephone call at a paid telephone booth in the Hotel Laurentian; is that correct, sir?

A Correct, sir.

Q So Mr. Dasti is in the Hotel Laurentian using a pay phone and he receives a call there from Oddo; is that correct?

A Correct, sir.

Q Now, that was on January 16th --

A Yes, sir, yes.

Q Is that correct, '71?

A Yes, sir.

Q Let us go back to the time period that Mr. Iannuzzi asked you about, that would be December 18th to December 31, 1970.

A Yes, sir.

Q During that period of time did you have a wire-tap installed on the pay-telephones -- on any pay telephone at the Hotel Laurentian?

A No, sir.

Q Did you have a wiretap between December 18, 1971 and December 31, 1970 ---

THE COURT: '71, you said.

MR. PUCCIO: I am sorry, your Honor.

Q Between December 18, 1970 and December 31, 1970 on any telephone located at the Pescatore Restaurant?

A No, sir.

MR. IANNUZZI: If your Honor pleases, I would suggest that this is rather immaterial and improper, he is starting to go on to all the telephones in the world that he didn't have a tape on.

THE COURT: Oh, I won't allow Mr. Puccio to ask questions about all the telephones in the world,

I will allow him to ask questions concerning that period of time, December 18th to December 31st, regarding the telephone lines that were tapped at any time on which tapes are being offered.

MR. IANNUZZI: Well, the Pescatore Restaurant is not one such.

THE COURT: All right, I will allow it anyway as an exception to my ruling.

Go ahead, Mr. Puccio.

Q Now, do you have a wiretap or did you have a wiretap during that same time period, December 18 to December 31, 1970 on any telephone located at the Dante Pizzeria?

MR. IANNUZZI: Objection, sir, that is not one that is being offered here. It is --

THE COURT: Overruled, I will allow it.

Any place that has any relevancy to the evidence in this case I will allow.

A No, sir.

Q Was that answer, "No, sir"?

A "No, sir."

Q Now, I take it you know Mr. Dasti's residence was located in Montreal in December of 1970; is that correct, sir?

A Yes, sir.

Q And --

THE COURT: I am going to suspend for lunch early and I think this is a good time to do it.

The jury is excused for lunch.

I will ask you to return at one o'clock.

(At 12:00 noon the jury left the courtroom.)

THE COURT: Gentlemen, I have a luncheon meeting in the courthouse concerning some administrative business with a Congressman as to locating a new courthouse out on the Island --

MR. PUCCIO: If you are telling us that you will take more than 45 minutes to an hour for lunch, we won't object.

THE COURT: No, I am not going to, my meeting has already commenced; I will get there a little late. We were supposed to start at twelve o'clock.

What I want to do is spend a few moments, if I can, on the question raised by Mr. Klar.

If you have anything, I will take it.

MR. PUCCIO: We haven't done any extensive research on it yet but we have something--

THE COURT: Fine, fine.

I have a very late Supreme Court case involving a wiretap of a lawyer's conversation, between the

lawyer and his client.

MR. PUCCIO: Well, we have been looking under the husband-and-wife privilege, we will check further, I would just point out that the proposed rules do not prevent this conversation from getting into evidence, and that will be under the new proposed rule 505.

THE COURT: 505?

MR. PUCCIO: Yes.

And I also understand, and this is just actually a note which Mr. Korman sent down, the privilege is linked to preserving marital harmony which might be endangered if the spouse testified; it is directed towards her testifying against her husband, and we would submit that there is no such danger here, we are not asking her to testify, and I don't see how Mr. Dasti's marital harmony, I don't see how it can be endangered in any way at this point. But we will try to come up with some more on this.

THE COURT: Yes. My offhand reaction was that once there is probable cause to invade privacy, then I don't see how a privilege can be protected against that intrusion, once the predicate is

established. The mere fact that it happens to be a husband and wife, to me appears quite immaterial.

I think the first problem is intruding on any conversation. Once, for example, under our Title 3, if the Court has said, Yes, you may tap a wire, then I don't think one is prevented from tapping a husband-and-wife's conversation, if it is related to or in some way engaged in criminal activity, no, not because it happens to be a wife-husband conversation, or a husband-wife conversation, we have already intruded into the privacy of the home --

MR. PUCCIO: In any event, we are not asking her to testify against her husband.

THE COURT: That is another point.

MR. KLAR: There is no criminal activity between Mr. and Mrs. Dasti, I would submit.

THE COURT: This really relates to minimization.

MR. KLAR: I understand.

THE COURT: When we talk -- and that is another concept that developed and is developing, and it developed after these tapes were made, we are talking about what you can keep out and what you can't keep out. I say for example if this were a private

conversation which had no relationship to criminal activity, then under the minimization concept we would be prevented from listening to it; but if the authorities are advised that Mr. Dasti is about to come to New York and to complete a narcotics transaction and he gets on the phone with his wife and says, Come on, get packed, honey, I have to meet a certain man and I hope it has something to do with Frankie, and it may be Frank Cotroni, and we are going to meet at a hotel and I hope to be through on Monday night but it may take a little longer, another conversation from which a jury may reasonably infer that it indeed had a relationship to the criminal conspiracy, why should it be excluded? Now they may not be promoting a criminal act by themselves, the conversation in and of itself may not be criminal, but that is truly part of a conversation which relates to the conspiracy --

MR. KLAR: Except 2517 provides that "Such privileged communications which shall be intercepted shall not lose their privilege." That type of privilege remains intact, and it is greater --

MR. PUCCIO: That is begging the question, I believe.

MR. KLAR: That is the language in fact of

the statute. I will bring the statute with me after lunch; I think this is kind of privileged communication which the section intends to be privileged.

THE COURT: Is it any conversation between two people?

MR. KLAR: Not every conversation.

THE COURT: Suppose it was between Frank Cotroni and his mother, would it make any difference?

MR. KLAR: I think it would be privileged only between --

THE COURT: Only because of the husband and wife privilege?

MR. KLAR: Yes, that is more sacred than a conversation between a mother and son.

THE COURT: With a husband and wife it is privileged, but when is the privilege destroyed?

MR. KLAR: But I don't think it meant if there is no showing of a crime between Mr. Dasti and Mrs. Dasti.

THE COURT: The Court has said you may intrude on all conversations that come into this telephone, the Court has made that determination.

MR. PUCCIO: In addition, your Honor, I think it is fair to say that the husband and wife privilege is based upon privileged communications which arise

from the marital relationship; here you have first a call from Mr. Dasti, calling from a public telephone at the Pescatore Restaurant on January 8th, and having I would submit from the testimony, just met with Mr. Cotroni and Catania, who probably was still there, and it refers to certain things which are known by third parties.

THE COURT: I am going to reexamine it in the light of Mr. Korman's argument made to me through you where he said the privilege is against the wife testifying against her husband.

MR. KLAR: But this is her testimony.

MR. PUCCIO: No, she has not been called.

MR. KLAR: It may be in effect her testimony, that is, instead of putting her on the stand we are having words introduced to the jury through a tape.

THE COURT: How does that interrupt the husband-wife relationship?

MR. KLAR: It is a defense to which the defendant is entitled and I --

THE COURT: That is just platitude. The fact is that the theory was that if the husband got up on the witness stand and was forced to testify against the wife it would destroy the relationship. She is not being forced to do anything, he is not being forced

to do anything.

MR. KLAR: She hasn't been asked whether she wants this conversation admitted, she is being forced--

THE COURT: Of course she hasn't.

MR. KLAR: She is being forced.

MR. PUCCIO: We will agree that it is against her will and that if she were asked she would object to it.

THE COURT: Of course it is against her will.

You find a case on it.

All right, one o'clock, gentlemen.

(At 12:05 p.m. a recess was taken until 1:00 o'clock p.m.)

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(The following occurred out of the hearing of the Jury.)

THE COURT: Did you find any cases to support your position, Mr. Clar?

MR. CLAR: Yes, your Honor, United States versus Kahn.

MR. PUCCIO: Is that the 7th Circuit?

THE COURT: If that's the only case you have, 7th Circuit, 471 Fed. 2d 101, motion to suppress is denied based on the authority of United STates versus Kahn.

MR. CLAR: I also refer the Court to American Bar Association project, standards relating to an electronic surveillance, 1968, Section 5.11, for the Court's reference also.

You have it on the record.

MR. PUCCIO: I should point out that the proposed rule I cited was adopted by the Criminal Court.

THE COURT: I looked at the rule, but I saw nothing in that that excepted interceptions. I had one of the original drafts. May I see the rule? I don't know that I have yet received a copy of the rules approved by the Congress.

MR. PUCCIO: Well, what happened is that

Congress essentially left it up to the Court, however, the highest Court has adopted the rules of the Supreme Court.

THE COURT: It's clear under Kahn that the Supreme Court reversing the Court of Appeals approved its ruling reversing the District Court, where the District Court held it was priviliged.

All right. Seat the Jury.

(The Jury entered the Courtroom at 1:05 P.M.)

MR. PUCCIO: Your Honor, I have no more questions for Mr. Couture.

MR. IANUZZI: If your Honor please, I do.

THE COURT: Mr. Couture, would you please resume?

CROSS EXAMINATION

BY MR. IANUZZI:

Q Now, Mr. Coutoure, that log that you referred to, although it happened on December 14th, was that a conversation with Mr. Cotroni and somebody?

A Which long are you referring to?

Q December 14th, you said in reference to Mendola's phone, you said there was a conversation. You spoke about one that was the stock market, et cetera, is that correct?

A Yes.

Q And that -- then you said there was another consideration.

A Yes.

Q Was that a conversation that Mr. Cotroni was a party to? In other words, was he on the phone?

A Yes, he was talking to Mr. Guido Orsini and he did also talk to Mr. Santo Mendola.

Q Both on the same conversation?

A Yes, sir.

Q Do you have the tape for that conversation?

A I think so, sir.

Q Is that -- does that conversation have to do with wine? Do they talk about wine in that conversation?

THE COURT: Do you mean is it mentioned or is that what the conversation was about?

MR. IANUZZI: I'm asking about the words, not his interpretation.

THE WITNESS: The words say wine, bottle of wine.

Q Does it talk about Mr. Orsini having wine to be imported into Canada?

A Yes, around twenty bottles.

Q And a sample bottle of a particular wine?

A Yes, sir, samples.

Q Sample bottles of wine? Of a particular wine?

A Yes, sir.

Q And do they talk about seeing the liquor permission in order to get permission to import the same into Canada?

A He said that he saw the notary to get the wine.

Q And the notary is an official?

A It's kind of a lawyer.

Q So somebody saw the lawyer in reference to the wine, is that correct?

A Yes.

Q And how about the Liquor Commission, does it mention the fact that they have to go to the Government, the Liquor Commission?

A Yes, sir.

Q And does it talk about an automobile that Orsini was going to buy, an Italian automobile, that he put a deposit on?

A It's talking about a person that would drive the automobile.

Q Someone who would drive the automobile?

A Yes, sir.

Q Did he say he made a deposit on it, and -- it's

Italian sports car.

A Yes.

Q Orsini. Orsini made the deposit?

A Yes, sir.

Q You never arrested Frank Cotroni in reference to wine or a notary or a Liquor Commission or an automobile, did you?

A No, sir.

Q Now, you indicated that at one time a phone call on an emergency basis was, or a phone, a public phone on an emergency basis was tapped for just 15 minutes, right, in the Laurentian Hotel?

A Yes, sir.

Q And someone ran in there, when I saw ran, he may have walked in quickly, but he went in quickly and didn't have time to set up an elaborate system, but he set up the wire into a portable tape recorder, correct?

A I think so, sir.

Q That was toward the end when you wanted to obtain information quickly from a particular telephone, right?

A Yes, sir.

Q And you were able to do that, is that correct?

A Yes.

Q Not you personally, I mean that Mr. Lavallee did that.

A Yes, sir.

Q Now, you also testified in answer to Mr. Puccio's questions that you didn't have a tap on the Dante Restaurant or pizzeria telephone, is that correct?

A That is correct.

Q You didn't have one?

A No, sir.

Q And you didn't have one on the Pescatore Restaurant?

A No, sir.

Q And you didn't have one on maybe a million other telephones?

A Correct, sir.

Q Well, did you ever put an emergency tap on the Pescatore Restaurant?

A No, sir.

Q Did you ever put an emergency tap on the Dante Restaurant?

A No, sir.

Q And do you have any tapes of any other telephone conversations between Frank Cotroni and Frank Dasti concerning this cocaine transaction other than the ones that are in this book?

A Pertaining to this?

Q Yes, the case that is on trial.

A No, sir.

Q Any telephone, anywhere in the world?

A No, sir.

Q Did you overhear any conversation that you didn't tap?

A No, sir.

MR. IANUZZI: I have no further questions.

THE COURT: Do you have anything, Mr. Clar?

MR. CLARE: Yes, I do, your Honor.

XXXXX RECROSS EXAMINATION

BY MR. CLAR:

Q Now, Mr. Couture, I believe you testified earlier today, that the purpose of the original wiretapes were to investigate gambling individuals at the Victoria Sporting Club; is that correct?

A Yes, sir.

Q And in the course of it, in the course of listening to the recorded conversations, it was your job to pick out and search for these different signals or code words you might get that would indicate some type of illegal operation; is that correct?

A Yes, sir.

Q Now, I think you testified that there are

certain code words that are used in the narcotics transactions; is that correct?

A This particular case, I think so, sir.

Q In any case involving narcotic transactions people don't say heroin or cocaine on the phone; they use other terms.

A Some other terms that I know, yes, sir.

Q Those are the terms that you look for?

A Yes.

Q In fact, there are code words in gambling, as well, aren't there?

A Yes, sir.

THE COURT: Do you know of standard code words that are used generally in illegal gambling and illegal narcotics?

In other words, words that are customarily used so that one narcotics dealer would recognize what was meant by the code name?

THE WITNESS: They could use --

THE COURT: Is there such a thing?

THE WITNESS: I don't think so, sir.

THE COURT: All right.

Q You testified that you were a policeman assigned to the Quebec Police Force back in 1965.

A Yes, sir.

Q Were you assigned to the narcotics division at that time?

A No, sir.

Q What were your duties at that time?

A I was to analyze all information coming through electronic surveillance.

Q Prior to --

A Excuse me. I had to deal with members of Organized Crime.

Q Prior to doing that, did you have any experience in the narcotics field relating to the narcotics transactions of heroin or any other narcotics?

A No, sir.

Q So you had no knowledge of what these terms were in the narcotic field?

A Except on what I had learned through our training.

Q What was told to you?

A What I was told?

Q You knew from what others had told you, but not from your own experience.

A Right.

Q And you also -- withdrawn.

Q Now, just as there are code words in the narcotics field and gambling field --

THE COURT: Objection sustained. I would like to have it established that this witness testified that there are code words that are customarily used in both of these illegal activities. I haven't heard him say that yet.

Q Are there code words that are, to your knowledge, used in the gambling and narcotics field?

THE COURT: Customarily used in that business?

A They could use any code word they want.

THE COURT: Are there certain standard code words?

THE WITNESS: I don't think so.

THE COURT: Not that you know?

THE WITNESS: I don't know.

Q So you looked for anything that might be suspicious to you?

A It could be, sir.

Q Are there any particular code words that are customarily in other illegal activities that you know of?

A You mean --

Q For example, let's suppose someone -- are there Havana cigars sold in Canada?

A Yes, sir.

Q You know, do you not, that they are sold in the United States?

A Yes, sir.

Q Therefore, as a police officer, you would know, would you not, that anyone who was to buy Havana cigars in Canada and bring them into the United States would be committing a crime, is that correct?

A Yes, sir.

Q That's a different type of illegal activity, not related to gambling or narcotics?

A That's correct.

Q If someone was to be making a purchase of Havana cigars in Montreal for the purpose of bringing them to the United States, they might not say that in a telephone conversation; they might use code words.

MR. PUCCIO: Is this a hypothetical --

THE COURT: This is a hypothetical, I'm waiting for the code words.

I will allow you to complete the examination in this area.

MR. PUCCIO: Will you take judicial notice that buying Havana cigars in Canada and bringing them into the United States is a crime?

THE COURT: I would say so.

Q Do you know any code words involved in that illegal activity --

THE COURT: You're talking about importing for sale in the United States?

MR. CLAR: Yes, sir, the buying and selling.

Q The activity we're talking about is the buying and selling of Havana cigars, do you know any code words in that activity?

A No, sir.

Q If you were assigned to a case where you had to install a wiretape and listen to the conversation with regard to Havana cigars to be purchased in Canada and sold in the United States, you would listen carefully for any words that might signal to you some other meaning that is really intended; is that correct?

A That's correct.

Q Now, there is a ference in Government's Exhibit 39, the first conversation, between Paul Oddo to Frank Dasti, on December 30th, 1970 where Dasti says, starts with a C.

A Yes, sir.

Q Did that particular phrase signal anything to you?

A At that time, sir, I was not an expert as far

as narcotics.

Q So that the -- excuse me, go ahead.

A I informed myself to staff sergeant sauve, and I was also told --

MR. IANUZZI: I object to hearsay, sir.

THE COURT: Objection sustained. The only question is did that signal anything to you?

THE WITNESS: I was also told --

MR. IANUZZI: Objection.

THE COURT: Did it signal anything to you at that time?

THE WITNESS: Yes, sir. If I -- when I listened to the conversation I did not only listen to line 58.

THE COURT: We understand that. When you listened to the whole conversation, did that -- what is that --

Q It starts with a C.

THE COURT: Did that mean anything to you?

THE WITNESS: Yes, sir.

THE COURT: The answer is yes.

Q And did that signal to you that -- what was it that you thought started with a C, meant?

A Cocaine.

Q But you don't know that for a fact. You didn't know that Mr. Dasti had cocaine, did you?

A I believed it was that.

MR. CLAR: I move to strike that.

THE COURT: Objection overruled.

Now, when you ask, no, I advised the lawyers before, to me no means any information obtained from any source. Knowledge is not alone what you see or hear directly.

Q That was your belief?

A Yes, sir.

Q But it could have been possible that the C here might have referred to cigars. Is that possible?

MR. PUCCIO: Objection to the form, your Honor.

THE COURT: Objection overruled. I will allow it.

Any word that began with a C, it could have meant that, too, right?

THE WITNESS: Yes, sir.

Q Could it have meant cigarettes --

THE COURT: You don't have to go through the alphabet.

Q It was your purpose -- withdrawn.

You were investigating Mr. Dasti for gambling,

is that correct?

A Yes, sir.

Q It could havemeant C note, money related to gambling; is that correct?

A IT's possible, sir.

Q It's possible?

A Yes, sir.

Q Now, you recall, Mr. Couture, during the course of listening to these tapes, conversations related to Christmas trees --

A I recall what that conversation, sir.

Q -- Was that Mr. Dasti and Mr. Oddo, between them?

A Yes, sir.

Q That is the conversation with the language where the C is used.

A Yes.

Q In listening to that conversation, did the words Christmas trees signal anything to you in terms of a notation in your mind indicating they were talking of narcotics?

A No, sir.

Q Did you make a log of that conversation?

A Yes, sir.

Q But did you record the conversation on the master tape?

A No, sir.

Q So you didn't consider it a very important conversation?

A No, sir.

Q Now, there is another conversation on December 31st between Mr. Oddo and Mr. Dasti; is that correct?

MR. PUCCIO: Which number is that, sir?

MR. CLAR: Number two.

THE WITNESS: Number two.

MR. PUCCIO: Thank you.

Q And Mr. Oddo says to Mr. Dasti, "How many suits have you got?"

A Yes, sir.

Q Did the words suits there signal anything to you?

A In my belief the -- it signalled something to me.

Q Again, you thought it was a code name for narcotics, right?

A Yes, sir.

Q Cocaine in particular; is that correct?

A Yes, sir.

Q Then Mr. Dasti says to the effect, "I can get a few dozen," and he was laughint at the time, is that correct?

A Correct, sir?

Q Now, I'd like to refer your attention to a conversation, number eight, on January 5th, 1971 and this is between Vanacora and Dasti; is that correct?

A Yes, sir.

Q And these, you testified earlier, these conversations are absolutely correct, the transcription made have been compared to the original tapes and the master tapes and they are absolutely correct; is that correct.

A Yes, sir.

Q At some point in the conversation Mr. Dasti says to Mr. Vanacora, "If you come in I will show you the suits." Do you recall that?

A Have you got the line?

Q I think it's line 56, sir.

A Yes, sir.

Q "If you come in I will show you the suits."

A Yes, sir.

Q Mr. Vanacora being in New York I believe, and Mr. Dasti being in Montreal?

A Right, sir.

Q On January 5th, 1971?

A Yes, sir.

Q Again the word suits there indicated to you that Mr. Dasti had cocaine; is that correct?

A Yes, sir.

MR. CLAR: I have no further questions.

THE COURT: Anything further --

MR. CLAR: May I consult for a moment with Mr. Ianuzzi?

THE COURT: Go ahead.

MR. CLAR: I have another question, your Honor.

Q Going back to that same conversation, Mr. Couture, you said that this particular statement by Mr. Dasti, and I'm referring to line 56, indicated to you that Mr. Dasti had cocaine; is that correct?

A Yes, sir.

Q That would be the cocaine in this transaction; is that correct?

A Yes, sir.

Q And that would be the cocaine -- withdrawn.

That would also signal to you the fact that Mr. Dasti had that, had the cocaine in Montreal on January 5th, 1971; is that correct?

A Not necessarily, sir. He said I will show you the suits.

Q I will show you the suits if you come in. Didn't this conversation follow, I think two or three or four others where Mr. Vanacora said I'm coming up but for one reason or another was delayed, I think it snowed on one occasion.

A That's right.

Q And Mr. Dasti said, "If you come up I will show you the suits," right?

A Right.

Q Didn't that indicate to you that if Vanacora came in on that date, January 5th, 1971, to Montreal, that Dasti would show him the cocaine that he had?

A Not necessarily, sir.

Q But it's possible to interpret that, isn't it?

MR. PUCCIO: I object.

THE COURT: Objection sustained.

MR. CLAR: I have no further questions.

THE COURT: Anything further?

MR. PUCCIO: I have a couple of questions, your Honor.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Couture, Mr. Ianuzzi asked you about a conversation between Cotroni and Orsini and I believe Mendola,

I believe as well, concerning wine.

A Yes, sir.

Q Could you indicate your summary of that conversation in your logs, please? Is that in Vegas 9?

A Yes.

MR. PUCCIO: That would be 17 for identification, your Honor.

Q May I have the page, please?

A Pages six and seven.

Q Six and seven?

A Yes, sir.

THE COURT: What line is that?

THE WITNESS: It's pages six and seven.

MR. PUCCIO: This is in the logs, not the transcript of the conversation.

Q This conversation, as you pointed out previously, took place on --

A December 14th or 15th.

Q Between the 14th and 15th.

A That's it, sir.

Q Was Guido Orsini calling?

A Yes, sir.

Q Guido Orsini was calling from Italy to Santo Mendola's residence?

A Yes, sir.

Q And both Mr. Mendola was on the phone speaking to Mr. Orsini and Mr. Cotroni, right?

A Right, sir.

Q Now, the log is the summary of the conversation.

A Yes, sir.

Q And this particular log has not been translated yet, but in fact, it's in French, is that correct?

A I think we do have the master tape also, sir.

Q But the log that I'm looking at and you're looking at and Government's Exhibit 17 for identification, or the summary is in the French language, not in English.

A Yes, sir.

Q You, of course, speak French very well?

A Yes, sir.

Q Would you translate this log for us, please?

A Yes, sir. It's an incoming call, long-distance call from Italy.

MR. IANUZZI: Your Honor, if you please, in reference to that, I would just ask that the specific conversation be translated, not any comments perhaps that the policeman made by himself in the log.

THE COURT: You want the conversation --

MR. IANUZZI: If he translates the log, he

should only translate what he heard and not what he might have added. In other words, if he added comments not part of the conversation.

MR. PUCCIO: I will reserve this for a later time so that I can -- so we can get a translation which will eliminate any comments and just stick to the substance.

MR. IANUZZI: I have no objection to that, Judge.

THE COURT: All right.

MR. PUCCIO: No further questions at this time.

THE COURT: Anything further?

MR. IANUZZI: I don't have anything further.

THE COURT: All right, step down.

MR. PUCCIO: I ask that we be able to recall Mr. Couture.

MR. IANUZZI: Shouldn't we eliminate the examination of Mr. Tobin at this time?

THE COURT: Do you want to cross-examine him?

MR. IANUZZI: I want to clear up the direct.

THE COURT: All right, take the stand, Mr. Tobin.

MR. IANUZZI: May I just indicate, I just indicated for the purpose of clearing up the record, I would have no cross-examination of Mr. Tobin.

THE COURT: Do you have any cross-examination?

MR. IANUZZI: No, your Honor.

THE COURT: Do you have any cross-examination Mr. Clar?

MR. CLAR: No, your HOnor.

THE COURT: All right, next witness.

MR. PUCCIO: Yes, sir, your Honor.

R E G I N A L D B E E R S, having been called as a witness was duly sworn by the Clerk of the Court, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Beers, by whom are you employed?

A Royal Canadian Mounted Police.

Q For how long have you been so employed?

A Eleven years.

Q Do you have any specific duties with the RCMP?

Q I am assigned to the Drug Enforcement Branch in Ottowa.

Q How long a period of time have you been so assigned?

A Approximately a year and a half.

Q Prior to that, were you attached to the Drug Enforcement Branch in the Province of Quebec?

A Yes, sir.

Q Did you specifically work in Montreal?

A Yes, sir, I did.

Q Now, I'd like to direct your attention to January 8th, 1971.

Now, on that date did you participate in the surveillance with other members of the Royal Canadian Mounted Police?

A Yes, sir, I did, your Honor.

Q And can you tell us who accompanied you on that surveillance?

A There were several members of our surveillance unit along with Staff Sergeant Soive and Agent Gallagher.

Q Staff Sergeant Soive would be a member of the Royal Canadian Mounted Police?

A That's correct.

Q And Agent Gallagher at the time was a member of the United States Bureau of Narcotics & Dangerous Drugs?

A That's correct.

(Continued on the next page.)

Q Now, at one point during that surveillance, did you have occasion to be in the vicinity of the Laurentian Hotel?

A Yes, I did, your Honor.

MR. PUCCIO: Judge Mishler is "Your Honor," myself and the others --

THE COURT: Don't be embarrassed, we know the custom in Canada, lawyers aren't used to be called "Your Honor," and Judges aren't used to being called "Your Lordship" here, so Mr. Puccio is a little shaken up by your calling him "Your Honor," because he is under the impression you are calling him a judge, but I understand --

THE WITNESS: I am addressing the Court, your Honor.

THE COURT: I understand that.

Don't be concerned.

Let the witness be comfortable.

MR. PUCCIO: Thank you, your HOnor.

THE COURT: You are not to be flattered, the fact is that this is the way the witness is used to addressing the lawyers in court.

If he feels at all comfortable that way, it is all right with me -- and I don't think it means a

higher office or an increase in salary to either myself or Mr. Puccio.

All right, you may continue.

BY MR. PUCCIO:

Q Now, during your surveillance of the vicinity of the Laurentian Hotel on the 6th, were you by yourself or were there other people with you?

A I was with Sergeant Sauve and Agent Gallagher.

Q And approximately at what time did you arrive at the Laurentian Hotel, in the vicinity?

A At approximately 6:00 o'clock.

Q And you were in an automobile, I presume?

A That is correct, sir.

Q And where was your automobile located in relation to the Laurentian Hotel?

A Up the street from it, just a little north.

Q Now, while you were in this position, did you have occasion -- did you, did you make any observation?

A Yes, sir, at approximately 6:05 Mr. Dasti, Mr. Oddo and a Mr. Vanacore -- I should say Mr. Dasti arrived at the hotel --

Q How did he arrive at the hotel, if you recall?

A By car.

And he entered the hotel and within a minute or

two he was out with two other gentlemen.

Q And the two other gentlemen were whom?

A Mr. Oddo and Mr. Vanacore.

Q Let me first show you Government's Exhibit 29.

Will you examine that photograph, please.

Do you recognize the individual depicted in that photograph?

A Yes, I do.

Q Tell us who it is, please?

A Mr. Oddo.

MR. PUCCIO: May I have this photograph marked, your Honor (indicating).

THE CLERK: So marked as Government's Exhibit 40 for identification.

Q Now I show you Government's Exhibit 40.

Will you examine that photograph, please.

Now, do you recognize the individual depicted in that photograph?

A Yes, I do, it is Mr. Vanacore.

Q And is that a fair representation of the way Mr. Vanacore looked on January 6th, 1971?

A I would say so, yes.

MR. PUCCIO: Your HOnor, I offer --

THE COURT: That is January 6th, 1971.

MR. PUCCIO: That is correct.

I offer Government's Exhibit 40 into evidence.

THE COURT: Show it to counsel, please.

Is there any objection, gentlemen.

MR. IANNUZZI: No objection.

MR. KLAR: No objection.

THE COURT: Let it be marked as Government's Exhibit 40.

THE CLERK: Government's Exhibit 40 previously marked for identification is now marked in evidence.

MR. PUCCIO: May I be permitted to circulate this photo, your Honor?

THE COURT: Yes.

(Mr. Puccio then handed it to the Foreman of the jury.)

BY MR. PUCCIO:

Q Now you have indicated, Mr. Beers, that Mr. Dasti came out of the hotel with Mr. Oddo and Mr. Vanacore; is that correct?

A That is correct.

Q Did you make any further observations at that location?

A At that location, no, I did not.

Q Well, did you see where Mr. Oddo, Mr. Vanacore

and Mr. Dasti went?

A They drove south on Pylyle where a surveillance unit would have followed them.

Q Did you see them get into an automobile near the Laurentian?

A When they got out they got immediately into Mr. Dasti's automobile.

Q There came a time in that same evening when you left the vicinity of the Laurentian Hotel and you travelled in your automibile to another location; is that correct?

A That is correct, sir.

Q And what was that other location?

A Mr. Dasti's car was located at a restaurant in Metcalf Street in Montreal, the Ostera Del Pensione.

Q You say his car was located near the restaurant, the Ostera Del Pensione?

A Yes.

Q You saw Mr. Dasti's car parked nearby; is that correct?

A That is correct.

Q Approximately what time was that, if you recall?

A Approximately 7:15.

Q And did you make any further --

A I'm sorry, approximately 6:15.

Q Did you make any further observations at that location of Mr. Dasti, Mr. Oddo and Mr. Vanacore?

A Yes, at approximately 7:35 the three of them exited the restaurant and again boarded Mr. Dasti's car and left.

Q And did you continue to follow them?

A I, along with the members of our surveillance team.

Q And where did they travel to by automobile?

A To the Deauville Airport.

Q Did you continue surveillance at the Deauville Airport or did you leave?

A I left.

MR. PUCCIO: No further questions.

THE COURT: Mr. Iannuzzi?

MR. IANNUZZI: Yes, if I may just have a couple of questions, sir.

CROSS-EXAMINATION

BY MR. IANNUZZI:

Q May I just know, Mr. Beers, how does one address a Royal Canadian Mounted Policeman, is it Officer?

A Corporal.

Q Corporal?

A Depends on the rank.

Q Corporal.

Now, Corporal Beers, on the 6th of January, 1971, when you made your various observations, did you at anytime on that date see Mr. Cotroni -- withdrawn.

Do you know Mr. Cotroni?

A Yes, I do.

Q And do you see him here?

A Yes, I do.

Q Is he seated at the table immediately to your right?

A Yes, sir, he is.

(At this point the defendant Frank Cotroni rose at defense counsel table.)

Q Is that he?

A That is he.

Q Very well.

THE COURT: Let the record show that the witness pointed out the defendant Frank Cotroni.

Q And on the 6th of January, 1971, while you made these observations that you say of Mr. Vanacore, Mr. Dasti, Mr. Oddo, did you at anytime see Mr. Cotroni in the company of Mr. Dasti?

A No, I did not.

Q Did you see Mr. Cotroni in the company of Mr. Oddo on that evening?

A No, I didn't.

Q Did you see him in the company of Mr. Vanacore on that evening?

A No, I didn't.

Q You didn't see him in the company of all three or of any of them?

A No, sir.

Q Did you ever in your life ever see Mr. Oddo or Mr. Vanacore -- well, did you ever see Mr. Cotroni in the company of Mr. Oddo or Mr. Vanacore?

A No, I have not.

(Mr. Iannuzzi then returned to counsel table.)

THE COURT: Have you completed?

MR. KLAR: I have just a couple of questions.

THE COURT: Mr. Iannuzzi, have you completed?

MR. IANNUZZI: No, I'm sorry.

Yes, I am sorry.

THE COURT: Mr. Klar?

CROSS-EXAMINATION

BY MR. KLAR:

Q Officer Beers, you say that Mr. Dasti arrived in his car alone?

A That is correct.

Q And he goes right into the Laurentian Hotel?

A That is correct.

Q And approximately how long before he came out with Mr. Vanacore and Mr. Oddo?

A Approximately one minute later.

Q And you are still outside; is that correct?

A That is correct.

(Continued on next page)

Q Did you at anytime enter the hotel?

A No, I did not.

Q And I assume that you followed their car to the restaurant?

A Along with the other members of the surveillance.

Q Yes.

And they go into the restaurant?

A I didn't see them go into the restaurant.

Q You did see Mr. Dasti's car outside?

A That is correct.

Q Did you ever go into the restaurant?

A No, I did not.

Q Then approximately 7:35 they come out and go directly to the airport?

A That is correct.

Q Did you follow Mr. Dasti, Mr. Oddo and Mr. Vanacore into the airport?

A No, I did not.

Q Where are you now, sir, still outside?

A That is correct.

Q Did Mr. Dasti go into the airport?

A No, he did not.

Q What did he do?

A He left.

Q Did he drop Mr. Oddo and Mr. Vanacore off?

A That is correct.

Q And he left?

A Yes, sir.

Q Did you continue your surveillance at that time?

A I did.

MR. KLAR: No further questions.

THE COURT: Anything further?

No?

You may step down.

Thank you.

(The witness was excused.)

MR. PUCCIO: The Government calls Mr. Claude Savioe.

C L A U D E S A V I O E, called as a witness on behalf of the Government, having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Savioe, by whom are you employed?

A I am a member of the Royal Canadian Mounted Police.

Q How long have you been so employed?

A Ten years.

Q Do you have any specific assignment with the Royal Canadian Mounted Police?

A Yes, I work on the MOntreal Drug Section.

Q And for how long a period of time have you worked on the Montreal Drug Section?

A Since 1967.

Q I would like to direct your attention, Mr. Savioe, to Friday, January 8th, 1971. Did you have occasion on that date to participate in a surveillance?

A Yes, your Honor, on the 8th of January, 1971 I was accompanied by Special Agent Kevin Gallagher of the then USBN & DD, which is now the Drug Enforcement Agency, he was in Montreal, and we went to the Pescatore REstaurant.

Q Where is the Pescatore Restaurant located?

A 1422 Stanley Street, in Montreal.

Q And at approximately what time of day or evening did you and Mr. Gallagher arrive at the Pescatore Restaurant?

A We arrived just around 7:00 o'clock, and we entered probably -- between 7:00 and 7:30, closer to 7:30.

Q You and Mr. Gallagher entered the restaurant; is that correct?

A That is right, your Honor.

Q Now, did you make any observations inside the

restaurant at that time?

A Yes, your Honor.

Q Tell us what you observed?

A I observed an individual by the name of Guiseppe Catania, Frank Cotroni and Frank Dasti.

Q Now, do you see Frank Cotroni in the courtroom today?

A Yes, I do, your Honor.

Q Will you point him out, please?

A He is the gentleman who just stood up.

THE COURT: Let the record show that the witness pointed out the defendant Frank Cotroni.

Q And do you see Mr. Dasti in the courtroom now?

A Yes, I do, your Honor, he is the second gentleman in the blue suit from the left.

THE COURT: Let the record show the witness pointed out Frank Dasti.

Q You saw Mr. Cotroni, Mr. Dasti and Guiseppe Catania in the Pescatore Restaurant on January 8th?

A That is correct.

Q At approximately 7:30?

A That is correct, your Honor.

Q Do you recall where in the restaurant they were when you made this observation?

A They were sitting at a table.

Q And for how long a period of time did you and Mr. Gallagher remain inside the restaurant?

A In and out, your Honor, one minute maybe, we saw them together and we were scared that Mr. Dasti might recognize either one of us and that we had seen him.

Q In any event, you just made the observation and you left?

A That is right.

MR. PUCCIO: No further questions.

THE COURT: Mr. Iannuzzi?

MR. IANNUZZI: Yes, if it please the Court.

CROSS-EXAMINATION

BY MR. IANNUZZI:

Q May I know your rank, sir?

A I am a corporal.

Q All right Corporal, and your name?

A Savioe.

Q Savioe?

A Savioe.

Q Savioe, all right.

(At this point Mr. Iannuzzi's papers dropped from the lectern.)

MR. IANNUZZI: I will just leave that there for

the moment.

Q You indicated that you saw Mr. Cotroni with Mr. Catania and Mr. Dasti in a restaurant; is that correct?

A Yes.

Q That is a public restaurant?

A Yes, sir.

Q When you went into that restaurant, sir, when you went into that restaurant, is it a bi-level restaurant, in other words there is an upstairs and downstairs?

A Yes, I believe there is.

Q And when you walked into it from the street, is the first level right on the same level with the street?

A No, there is -- there is nothing -- I believe there is a cloak room, your Honor, on the left when you enter.

Q What I mean is this, when you go in do you have to walk downstairs or upstairs or do you walk right into this restaurant?

A You walk downstairs or upstairs.

Q I see.

In other words, you come into the door and if you are eating you go down or up?

A That is correct.

Q At the level of the street there isn't a floor it is above or below the street level?

A That is right.

Q Where the bar is, do you know, do you know whether it is up when you come in?

A The bar is upstairs and there is also one downstairs, I believe, your Honor.

Q And are there tables, etc., etc., etc. for eating?

A Yes, sir.

Q Okay.

Are there tables upstairs for eating?

A Yes, there is tables upstairs.

Q And when you went in you say you saw Mr. Cotroni, Mr. Dasti and Mr. Catania, were they up or down?

A Upstairs.

Q They were upstairs.

When you saw them, they were sitting at a table, were they, or were they standing drinking?

A They were sitting.

Q Sitting at a table?

Were they dining, sir?

A No, I didn't see any food.

Q Now, were there -- well, was the restaurant very crowded, almost completely full?

A Not when I entered.

Q Well, at the time -- and let me just ask it this way to be sure -- you were in that evening once; is that correct?

A Yes, sir.

Q You went in for about --

A One minute.

Q One minute?

A Yes.

Q I think you indicated you didn't want Mr. Dasti to possibly see you?

A That is right.

Q And at that time you say you saw Mr. Cotroni, Mr. Catania and Mr. Dasti?

A That is right.

Q Now at that time was the restaurant fairly full, almost completely full at that time where they were sitting?

A There was, there was nobody right around them.

Q No one?

A No.

Q There was no one in the restaurant around them?

A Not around them, no.

Q As a matter of fact there was nobody else in that part of the restaurant?

A There was a few people in the restaurant but not right around their table, is I remember correctly, your Honor.

Q When you say that, you mean upstairs and downstair?

A I checked both, I looked at both places and it was --

(Continued on next page)

Q All right.

A (Continuing) It was early in the evenint and at that time the restaurants are usually not too crowded.

Q And at the time that you saw them --

A It wasn't crowded.

Q There was nobody there?

A I don't remember, it was, it was, it was four years ago, I don't remember.

Q Your memory is sufficiently enough because you filed reports in this case; is that right?

A Yes, sir.

Q And you have testified in other proceedings in this case or in another case or something?

A Not concerning this, no.

Q All right.

But in any event --

A In this case, yes, in Montreal.

Q Yes, in Montreal?

A Yes, excuse me, that is right.

Q And you had testified and so you have a fairly good recollection because this had been brought to your memory to refresh your recollection many times?

A Not many times, just --

Q Several times?

A No, to refresh my memory, I remember the night that the three of them were together was January 8th.

Q All right, an in fact there wasn't anybody in the restaurant around them; isn't that correct?

A That is right, nobody around that table.

Q And, sir, you did not hear any conversation by Mr. Cotroni to Mr. Catania or Mr. Dasti or to either one of them in connection with cocaine, did you?

A I did not hear any conversation whatsoever.

Q Nothing?

A Nothing.

Q And the only thing that you can testify to is that you saw the three of them in a restaurant?

A That is right.

Q Basically, and in a deserted area?

A That is right, your Honor.

MR. IANNUZZI: I have no further questions.

THE COURT: Mr. Klar?

CROSS-EXAMINATION

BY MR. KLAR:

Q Mr. Savioe, you said, did you not, that you went -- you checked both places, downstairs and upstairs?

A That is right.

Q Where did you go first?

A I believe I went downstairs first.

Q And I assume there are steps leading downstairs?

A That is right.

Q Now, standing at the top of the stairs, can you see the restaurant immediately below?

A No.

Q Do you walk down the stairs into the dining area?

A Yes.

Q Was it crowded?

A No.

Q Empty?

A There was hardly anybody there.

Q There was hardly anybody there?

Then you walked upstairs?

A That is right.

Q Did you sit down at all?

A No.

Q In the upstairs area?

A No.

Q Where were you seated with respect to the table where Mr. Cotroni, Mr. Dasti and Mr. Catania were sitting?

A Just, we just walked into the door and they were sitting at a table in the corner and we looked at them

and turned around and left right away.

Q In other words, you entered into the door -- is there a door upstairs?

A Yes there is.

Q Do you have to open the door to get in?

A I don't think so, I'm not sure.

Q But there is a door at the top of the stairs?

A There is a door coming in, I don't know if that door is always opened, but there is -- but there is an entrance.

Q You didn't see Frank Dasti say anything to the other two individuals?

A I didn't hear anyone talk.

Q Did you see anybody get up to make a phone call?

A No.

Q You said you arrived at the restaurant about 7:00 p.m.; is that correct?

A We arrived, yes, outside at approximately 7:00 p.m.

Q You didn't enter into the restaurant until closer to 7:30?

A That is right.

Q Were you in a car?

A Yes.

Q Outside?

A Yes, I was.

Q And did you observe anybody enter?

A No, I didn't.

Q You knew that either of these three individual gentlemen were in the restaurant?

A No, I did not.

Q So at 7:30 you decided to go in to see if they were there?

A That is right.

MR. KLAR: I have no further questions.

THE COURT: Anything further.

MR. PUCCIO: Nothing further, your Honor.

THE COURT: You may step down.

Thank you.

(The witness was excused.)

MR. IANNUZZI: I have nothing further.

THE COURT: The next witness.

MR. PUCCIO: We will ask Mr. Couture, your Honor to resume the witness stand.

B A R N A R D C O U T U R E, having been previously sworn, continued to testify as follows:

CONTINUED DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Couture --

THE COURT: Do you intend playing these tapes?

MR. PUCCIO: Yes, your Honor.

THE COURT: Would you redistribute the books to the jury.

THE CLERK: Yes, sir.

MR. PUCCIO: We may have turned some of these headsets off during the lunch period, so I think the jurors will have to check.

THE COURT: You check the headset to make sure they are on.

MR. PUCCIO: We will again start the examination and then stop it and start from the beginning to just make sure that everyone is hearing.

THE COURT: All right.

I think you had better go down and start the headsets to make sure that they are working now.

MR. PUCCIO: I have a few questions first.

THE COURT: Let us see if the headsets are working first.

It is just a test.

(Mr. Couture then played part of a tape.)

THE COURT: Are they working, is every set working?

JUROR NO. 9: Mine is not working.

THE COURT: Juror No. 9 says hers is not working.

JUROR NO. 9: No.

THE COURT: Did you turn it on?

(Mr. Couture then approached the jury and exchanged a headset with Juror No. 9.)

THE COURT: All right, try the different headset.

Try it once more for Number 9.

Is there someone else?

ALTERNATE JUROR NO. 2: Yes, your Honor.

(Alternate jUror No. 2's headset was then changed.)

THE COURT: Okay now?

JUROR NO. 9: It is all right, it is all right now.

THE COURT: All right, they are all working.

Please resume, Mr. Couture.

(The witness then retook the witness stand.)

BY MR. PUCCIO:

Q Mr. Couture, you indicated previously that you

are familiar with Mr. Dasti's voice?

A With -- yes.

Q Now, in addition to that are you also familiar with Mrs. Dasti's voice?

A Yes, sir.

Q And had you heard Mrs. Dasti's voiceprior to the Vegas Project?

A Yes, sir.

Q Is it also a fact that Mrs. Dasti has the nick-name Pinky, as far as you know?

A Yes, sir.

Q Now, on Friday January 8th, 1971, between 8:00 p.m. and midnight, was a tape recording made of a conversation between the defendant Frank Dasti and Mrs. Dasti?

A Yes, sir, as a matter of fact we intercepted a phone call through Mr. Dasti's residence, which number is 514-488-0038, and that was an incoming call, Mr. Dasti was calling Mrs. Dasti.

THE COURT: 0038?

THE WITNESS: 0039, I am sorry, your Honor.

Q Can you play that conversation for us, that will be conversation Number 9 in the book ; is that correct?

A Yes, sir.

(At this point Mr. Couture took a position beside

the Uher Machine and began playing the tape.)

(Transcription of Call No. 9 follows:)

"Pinky: Hello.

"Dasti: Hi, Sweetie.

"Pinky: Hi Honey.

"Dasti: Hi Honey your foot.

"Pinky: Drunk huh?

"Dasti: Yeah, I'm drunk.

"Pinky: Well, just stay there.

"Dasti: Listen, how would you like to leave for New York tomorrow morning?

"Pinky: Oh I'd love it.

"Dasti: Well, start packing your bags (both laugh). Just start packing your bags.

"Pinky: Oh, they're already packed.

"Dasti: Go ahead, Pinky, get the bags out, we're leaving tomorrow, I gotta go into New York, Baby.

"Pinky: Are you kidding?

"Dasti: Hones to God.

"Pinky: We're leaving tomorrow.

"Dasti: Right.

"Pinky: For how long?

"Dasti: I don't know, four or five days.

"Pinky: Four, five days?

"Dasti: Yeah, Just start packing your bags, Sweetie.

"Pinky: Oh, come on baby.

"Dasti: I ain't kiddin.

"Pinky: For four or five days?

"Dasti: Well, I gotta meet somebody Sunday, maybe Tuesday, but Monday I'll finish everything. By Thursday I should be back here. I'm with some people now with Frankie and eh; just get your keyster (Ph) up.

"Pinky: No, but what time do we have to leave?

"Dasti: Well, let's say, I gotta, you see. I made a reservation at the Drake, you know.

"Pinky: Yeah.

"Dasti: And I should be there for tomorrow; but unless I can send her money for the day, you know.

"Pinky: Yeah.

"Dasti: No reservations (incomprehensible) not until eh Sunday; all packed she said, that stupid ass.

"Pinky: Well, tomorrow's Saturday.

"Dasti: I know! I couldn't get, but I can get one for Saturday, isn't that something.

"Pinky: Yeah, but I mean, can you, are you gonna do business tomorrow?

"Dasti: No, I ain't gone not do business tomorrow I gotta meet some people on Sunday, you know?

"

"Pinky: Oh!

"Dasti: But you see, if I can get in there tomorrow, Sunday, I can't get no reservation at the Drake. Anyway when I get home I'll talk to you Sweetie.

"Pinky: O.K. Honey.

"Dasti: I'll try to arrange something anyway. Maybe I'll send her a day out you know, a full day for the, for the room so they'll keep the room, you know. Do you understand what I mean? Eh?

"Pinky: Yeah, well suppose we would get, oh Sunday you can't get a room.

"Dasti: No, Sunday's nothin but I can get Saturday, and oh.

"Pinky: If you take it Saturday there, it'll be there but.

"Dasti: Yeah, I'll be there for eh indefinitely isn't that somethin? That stupid ass.

"Pinky: Who's payin?

"Dasti: Well, who's payin, Frankie's payin.

"Pinky: HUh, maybe we better take a tent.

"Dasti: (Laughs)

"Pinky: What are you doing?

"Dasti: I'm talking baby. (Hear singing in background.)

"Pinky: Oh, sounds like a lot of fun.

"Dasti: Yeah, these people are crazy here, now they take a few drinks they're jumping in the air: you know where Pescatore downstairs where the phone is, that music is running (Incomprehensible)

"Pinky: (Laughs)

"Dasti: The noise is goin.

"Pinky: Well, you sound half loaded darling.

"Dasti: Nah, are you kidden baby: I just had two scotches. How could I be half loaded.

"Pinky: O.K. hone, so, eh.

"Dasti: Well, eh, concentrate and let me know something when I get home.

"Pinky: Well, wha what do you want me to let you know?

"Dasti: Concentrate, that's all.

"Pinky: I mean you want me to go to the locker and take the bags out now?

"Dasti: Ha ha do something.

"Pinky: Well, honey, now come on, talk sense.

"Dasti: O.K. baby, I'll see you home.

"Pinky: I mean, you know, you want me to go now, and get the bags? Or can we make tomorrow afternoon (incomprehensible).

"Dasti: Well I guess tomorrow afternoon, maybe even if we stop by eh overnight you know; well, I just called to give you the good news; anyway I'll see you home.

"Pinky: Well I don't believe it yet.

"Dasti: Ah, you you can, you can bang on your head on it.

"Pinky: O.K. Honey.

"Dasti: O.K. Sweetie.

"Pinky: Gee it's it's funny I had the idea, the eh, did I say to you the other day you think you (incomprehensible)

"Dasti: Yeah, I know (incomprehensible)

"Pinky: That's funny.

"Dasti: O.K.

"Pinky: No, but no kidding, is he paying.

"Dasti: Yeah, yeah.

"Pinky: Oh you'll tell me when you come, when are you coming home?

"Dasti: Soon, as soon as I finish talking I'll be finish soon.

"Pinky: Soon?

"Dasti: Yeah.

"Pinky: You be careful honey.

"Dasti: I will

"Pinky: And it's so cold.

"Dasti: O.K. Sweetie.

"Pinky: I love you.

"Dasti: I love, bye bye.

"Pinky: Bye bye."

(This concludes Call No. 9.)

MR. PUCCIO: Your Honor, it has been stipulated that in the event a representative of the Drake Hotel were called as a witness for the Government, he would testify that the records I have in my hand were from the files of the hotel; that they were made and kept in the ordinary course of the business of the Drake Hotel; and at this time I offer them into evidence.

THE COURT: Any objection to them, gentlemen?

MR. IANNUZZI: No objection.

I would just like to see them for a moment because we stipulated that it wouldn't be necessary, I thought we had stipulated that it wouldn't be necessary.

THE CLERK: Drake Hotel records marked as Government's Exhibit 41 in evidence.

MR. IANNUZZI: I have no objection, in the event that I didn't indicate I have no objection.

DDS/3/1

THE COURT: Let it be marked.

THE CLERK: So marked.

(Continued on next page

DDS fls.

MR. PUCCIO: Your Honor, may I be permitted to read from this?

THE COURT: Yes.

MR. PUCCIO: This is a microfilm copy of the hotel registration card, back and front, and the hotel bill from the Drake Hotel in New York City.

It indicates the guests at the hotel were Mr. & Mrs. Frank Dasti. Their address 4635 Clanranald #418, Montreal, Canada.

The records indicate that Mr. & Mrs. Dasti checked into the Drake Hotel on January 9th, 1971 and that they checked out of the hotel on January 13th, 1971.

May I circulate this, your Honor?

THE COURT: Yes.

MR. PUCCIO: I have another stipulation.

It is further stipulated that in the event a representative of the Ramada Inn Hotel in Dallas, Texas were called as a witness for the Government he would testify that the records I have in my hand, which we are about to introduce, are records from the files of the Ramada Inn in Dallas, Texas and were made and kept in the ordinary course of business of the Ramada Inn.

THE COURT: Show it to counsel.

MR. IANNUZZI: I haveno objection.

MR. PUCCIO: Any objection, Mr. Klar?

MR. KLAR: No objection.

THE COURT: Let it be marked.

THE CLERK: So marked as Government's Exhibit 42 in evidence.

(Document referred to being records from the files of the Ramada Inn, Dallas, Texas, received and marked Government's Exhibit 42 in evidence.)

MR. PUCCIO: May I be permitted to read from this record, your Honor.

THE COURT: Yes.

MR. PUCCIO: This exhibit consists of a registration card and hotel bill from the Ramada Inn, 6900 East Cedar Springs Road, Dallas, Texas.

And it indicates that an individual named Claudia Martinez checked into the hotel on January 9, 1971 with a Datsun automobile and checked out of the hotel on the morning of January 10, at 10:00 a.m. I am sorry, January 10th in the a.m.

May I circulate these records?

THE COURT: Yes.

MR. IANNUZZI: May I suggest to the Court, while we are looking at the documents, that I have an objection as to relevance, but not as to the particular

document.

THE COURT: I understand.

MR. IANNUZZI: And to all the other documents that were stipulated to, I object to their relevance, but other than that I have no objection to the specific document.

THE COURT: It may be marked with the understanding of the defendant's particular objection to relevance.

MR. PUCCIO: Your Honor, we call Mr. Frank Gill.

Your Honor, can we have a short recess.

THE COURT: I will wait until you get through looking at the exhibits.

Do you intend to play the tapes?

MR. PUCCIO: Yes, we will play the tapes.

THE COURT: Then I suggest you keep the books on your chair or anyplace that is convenient (addressing jury). But we will wait until all the jurors have seen the exhibits that are being passed around.

We might as well take a short recess. We will take a recess until 2:30 so that if you would like to go down and get a cup of coffee or a drink from the soft drink machine, you may do so.

(The jury thereupon retired from the courtroom.)

(Short recess.)

(After recess.)

THE COURT: Now what's the problem.

MR. PUCCIO: Everybody was downstairs but apparently they just went out to get a sandwich. Apparently there must be a misunderstanding. We are going a little faster than we thought.

MR. IANNUZZI: What is that?

THE COURT: Apparently the witness went for a walk for coffee.

MR. PUCCIO: They went across the park for coffee. We sent a car out to bring them right back.

MR. IANNUZZI: I though Mr. PUccio was saying his case was shorter.

MR. PUCCIO: No, I think we are just going a little faster than anticipated.

MR. IANNUZZI: May we get an idea with reference to how long you will be so I will know when to bring witnesses?

THE COURT: Today?

MR. IANNUZZI: No. I mean in general. Next Tuesday?

MR. PUCCIO: I will have witnesses available the beginning of next week.

MR. IANNUZZI: The beginning?

MR. PUCCIO: If we don't complete our case today we will complete Monday.

MR. IANNUZZI: Well that's an idea.

THE COURT: So you should be able to bring them in Monday afternoon or at least on call.

MR. IANNUZZI: Yes sir.

THE COURT: All right, try and get back at 2:30.

(Short recess.)

(After recess.)

THE CLERK: Be seated please.

THE COURT: Are you ready to proceed?

MR. IANNUZZI: I suggest one point, if your Honor please, and that would be that apparently we are going to have testimony by Agent Gill who apparently made some observations or surveillances. But we have not in the entire mass of information -- we have not been given any 3500 Material with respect to this particular item. So I would ask the Court to permit us to see it.

THE COURT: After the direct I will direct the Government to turn over any 3500 Material. Do you have that?

MR. PUCCIO: Yes, I do. And I have someone up-

stairs making copies of it right now.

THE COURT: All right. Will you give it to counsel without making a demand for it so that you will just turn it over and give it to them? Is that all right?

MR. PUCCIO: As soon as it arrives.

THE COURT: Or do you want me to excuse the jury.

MR. PUCCIO: It is two pages long.

MR. IANNUZZI: Maybe we can read it meanwhile.

MR. PUCCIO: Do you want to read it before the jury comes in?

THE COURT: Mark it.

THE CLERK: A two page report dated January 18th, 1971 marked Government's Exhibit 3500-8.

(Document referred to consisting of a two page report dated January 18th, 1971 referred to as received and marked Government's Exhibit 3500-8.)

MR. PUCCIO: I have the original upstairs.

MR. IANNUZZI: May I indicate for the record your Honor, that we have gotten so much information and continual representations by the Government that we have gotten so much information, and this is very very significant, and this we didn't get.

MR. PUCCIO: I don't know how significant it is.

MR. IANNUZZI: Well, surveillances in New York at the time of the alleged transaction.

THE COURT: Well, go ahead. This is two pages. If you need any time let me know.

MR. IANNUZZI: May I just look at it now.

THE COURT: Yes, surely.

(Counsel examine document.)

THE COURT: Now, Mr. Iannuzzi, you have taken some time with it.

MR. IANNUZZI: We are reading it.

THE COURT: I know. But there is a discussion going on. You will have time to go over it.

MR. IANNUZZI: When will that be, sir?

THE COURT: Anytime that you want it. If you want to at the end of the direct, I will suspend and give you all of the time that you want.

MR. IANNUZZI: If you want to do it that way, your Honor.

THE COURT: Seat the jury.

I can do better things than just sit here and wait until you get through discussing it, you know.

MR. IANNUZZI: Well, we are going to have to stop.

THE COURT: I know. But I don't like to waste

my time either. My time is worth something too.

MR. IANNUZZI: It certainly is, Sir.

(The jury thereupon returned to the courtroom.)

MR. PUCCIO: I call Mr. Frank Gill.

THE CLERK: Face me and raise your right hand.

F R A N C I S M. G I L L, called as a witness on behalf of the Government having been first duly sworn by the Clerk of the Court took the stand and testified as follows:

THE CLERK: State your name and spell it for the record.

THE WITNESS: Francis M. Gill G-i-l-l.

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Now, Mr. Gill, by whom are you employed?

A I am employed by the Drug Enforcement Administration

Q How long have you been so employed?

A Approximately eight years.

Q Where is your present office or assignment?

A Toronto, Canada.

Q What is your position in Toronto, Canada?

A Special Agent in charge of the office.

Q Now, of course you were a member of the predecessor agency, the Bureau of Narcotics and Dangerous Drugs?

A That is correct.

Q As it was then called?

A Yes, that is correct.

Q During the year 1971 were you working with the Bureau of Narcotics and Dangerous Drugs in New York City? Is that correct?

A Yes, that is correct.

(Continued on next page)

Q I would like to direct your attention now to first to Saturday January 9th, 1971.

On that date did you have occasion with other Bureau of Narcotics Agents to conduct a surveillance in New York City?

A Yes we did.

Q And where did you personally on that date begin your surveillance?

A In the vicinity of the Drake Hotel, 56th Street and Park Avenue in Manhattan.

Q And approximately what time of day did you begin the surveillance?

A I arrived at the Drake at approximately 5:30 p.m.

Q Tell us what took place or what you observed after you arrived?

A After arriving at the Hotel and parking the vehicle in the vicinity of the Hotel I went into the lobby of the Drake. And at that time I saw the defendant Frank Dasti sitting in the lobby.

Q And now, do you see Frank Dasti in the courtroom today?

A Yes I do.

Q Will you point him out please?

A Yes. He is sitting at the defense table, the

second from the right in the dark blue suit.

THE COURT: Let the record show that the witness pointed out the defendant Frank Dasti.

Q What further observations did you make of Mr. Dasti?

A After seeing the defendant Dasti, I immediately left the hotel and took up a position on 56th Street. Approximately five minutes later I saw Mr. Dasti exit the hotel and enter a vehicle which was parked -- it was a gold Pontiac -- parked on 56th Street at the corner of Park Avenue.

Q And when Mr. Dasti entered the vehicle were there any people inside?

A Yes. There were two males inside the vehicle already.

Q And from your vantage point were you able to identify either of the two males?

A I was able to see one of the males but I wasn't able to identify him at that time.

Q Did you later identify him?

A Yes we did.

Q Who was that?

A An individual by the name of Anthony Vanacore.

Q Were you able to identify the other man?

A No.

Q Now, did you have occasion to observe the license plate of the vehicle?

A Yes I did. It was a New York plate. I don't recall the number though.

Q Who was the vehicle registered to?

A It was registered to Anthony Vanacore, the son of the individual who is sitting in the courtroom.

Q What other observations, if any, did you make on that day?

A Well, after Mr. Dasti entered that vehicle he was in the -- he stayed in the car for approximately 20 or 25 minutes. And then exited the vehicle and reentered the Drake Hotel.

Q Now, during the surveillance were you accompanied by any other agents of the Bureau of Narcotics?

A Yes I was. Approximately six other agents.

Q There were six other agents in the area?

A Yes, there were.

MR. PUCCIO: Your Honor, I would like Mr. Gill if I may, to step down for a minute and I would like to have Mr. Couture take the witness stand.

THE COURT: All right.

MR. PUCCIO: I have further questions for Mr. Gill in a few minutes.

MR. IANNUZZI: Your Honor, may I just ask that this procedure is rather disconcerting. I think the witness should be finished. We keep getting this procedure. And I think it is improper.

THE COURT: Why can't you complete with this witness?

MR. PUCCIO: Well, I will be recalling this witness your Honor. We are attempting to do it chronologically.

THE COURT: No. Why can't you complete with this witness?

MR. PUCCIO: Do you want me to continue?

BY MR. PUCCIO:

Q Mr. Gill, did you continue this surveillance on the next day or continue participating in the surveillance, next day, January 10th?

A Yes, that is correct. We resumed the surveillance on early the morning of the 10th.

Q That was a Sunday?

A Yes, a Sunday.

Q Approximately what time of the day on the 10th did you personally begin working on the surveillance?

A Approximately 8:00 or 9:00 a.m.

Q Did you make any observations at that time?

A Yes. On the morning of the 10th I observed Mr. Dasti in the hotel lobby. And he remained there for approximately one hour, 45 minutes to an hour, and then re-enter the elevator.

Q Approximately what time was he in the lobby, if you recall?

A In the morning, it would have been around 11:00 a.m.

Q And he remained in the lobby for an hour?

A Approximately 45 minutes to an hour, and returned about noon.

Q And he returned to the elevator approximately about noon? Is that right?

A Yes.

Q Did you make any further observations of Mr. Dasti on that day?

A Yes, a little later in the afternoon, at approximately 1:30 or 1:34 p.m., he again came down to the lobby and again remained for another 45 minutes just in the lobby before returning to the elevator.

Q Did Mr. Dasti -- did you observe Mr. Dasti do anything in the lobby?

A At that time, no.

Q Did you make any further observations of Mr. Dasti?

A Yes, later on in the afternoon at approximately 4:00 o'clock Mr. Dasti exited the elevator, entered the lobby, left the hotel and started walking. He walked east on 56th Street and then started walking north on Park AVenue.

And at this point there was some confusion in the surveillance and we lost him one or two blocks north of the hotel on Park Avenue.

Q So you and the other agents lost sight of Mr. Dasti?

A Yes.

Q Now approximately what time was it you lost sight of Mr. Dasti?

A It would have been a few minutes after 4:00, 4:10, 4:15.

Q And did there come a time later that day again when you observed Mr. Dasti?

A Yes, we saw him return to the hotel around 6:00 p.m. or a little before 6:00.

Q And did you make any further observations of Mr. Dasti at 6:00 o'clock?

A Yes. The next time I saw him after he returned to the hotel was again in the lobby, although this time with a female, which was his wife. And they went into the Drake Hotel dining room and had dinner.

Q At approximately what time of the day did they have dinner?

A That was right around 6:00 o'clock.

Q Did you observe Mr. & Mrs. Dasti having dinner?

A Yes. They had dinner. And after finishing dinner they returned to the lobby. And Mrs. Dasti reentered the elevator, presumably to go back to the room. And Mr. Dasti exited the hotel and hailed -- well, he had the doorman hail a cab for him.

Q Were you able to follow him after that?

A No, we weren't. The traffic was such that he got a cab very quickly and we weren't able to get out cars. And the cab went through the light on 56th Ave. and Park. We weren't able to make the light.

Q So you lost him again?

A Immediately.

MR. IANNUZZI: I lost a little bit of the continuity. May I know just when that was?

THE COURT: Mr. Simon, would you please -- are you asking that the time be fixed?

MR. IANNUZZI: In other words what day and time. I am sorry I lost that.

THE COURT: Well, you continue. If it wasn't stated then you can ask him that on cross-examination.

I thought it was something you didn't hear.

MR. IANNUZZI: I didn't hear what day and time he said.

THE COURT: All right, Mr. Simon, read the answer back.

MR. IANNUZZI: The last part. Just the last part. I am sorry, sir.

(Record read.)

MR. IANNUZZI: Will you read that further back.

(Record read.)

Q Approximately what time was it when you lost Mr. Dasti for the second time?

A It would have been shortly before 7:00 p.m. Approximately a quarter to seven, ten to seven we left the hotel.

(Continued on next page)

fls.

DIRECT EXAMINATION

BY MR. PUCCIO: (Cont'd.)

Q Now, did you continue your surveillance of Mr. Dasti on Monday, January 11th?

A Yes, on the 11th there was another surveillance, yes.

Q Were you a participant?

A Only for a portion of it.

Q And when did you begin working on the surveillance on that day and where?

A It was began, on the morning, Monday morning, the 11th at the Drake Hotel. At this time Mr. Dasti was seen in the morning between 10:00 and 11:00 in the morning. He came out of the hotel and grabbed a cab again. At that point my participation ended.

Q Were you able to follow him?

A Other agents were.

Q You made no other observations yourself, when he left?

A No.

MR. PUCCIO: No further questions.

THE COURT: All right, cross-examination, Mr. Iannuzzi.

CROSS-EXAMINATION

BY MR. IANNUZZI:

MR. IANNUZZI: May I have a moment, your Honor --

THE COURT: Do you want to take a recess?

MR. IANNUZZI: I think I can do it if you just give me a minute or so.

THE COURT: All right, go ahead.

BY MR. IANNUZZI:

Q Agent Gill, would it be more proper to call you Mr. Gill?

A It doesn't matter. Either way.

Q If I ask you anything that has a tendency to confuse you or not understood, please tell me so I could rephrase it. All right?

A Yes, sir.

Q You indicate that you are a member of the DEA, and a special agent?

A Yes, sir.

Q And as a special agent, you are a trained investigator. Is that correct?

A Yes, sir, that's correct.

Q And as part of your duties as a trained investigator, you are to gather information?

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A Yes.

Q And on occasion that information might be used in a trial or a prosecution?

A That's correct.

Q And so when you gather this information in conjunction with that training that you receive, you gather this information toward the end of preserving any integrity thereof, so that it could be preserved for court?

A You mean putting it in a report, yes.

Q Putting it in a report making sure you have all the facts and nothing is missed and you have a complete investigation, or as complete as you can make it?

A Yes.

Q And in conjunction with this training, you have some training I assume in surveillances?

A Yes, sir, that's correct.

Q And not only do you have training in surveillance but you also have some experience in surveillances?

A Yes.

Q Is that correct?

A Yes.

Q And of course, you had experience in surveillances before January of 1971?

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A Yes, sir, that's correct.

Q And experience in not only surveillance but in making reports. Is that correct?

A That's correct.

Q Now, you indicate that on January 9, 1971, you became aware that a Mr. Dasti was going to be in New York at the Drake Hotel. Is that correct?

A That's correct.

Q You knew that. It had to be determined either by yourself or by your superiors or by fellow agents that a 24 hour surveillance would be maintained?

A Yes, sir, that's correct.

Q And on January 9th, I believe, you indicate that Mr. Dasti was seen in the vicinity of the Drake Hotel. Is that correct?

A In the hotel, in the hotel lobby.

Q Actually in the hotel?

A In the lobby.

Q This hotel, by the way, sir, is on 56th Street and Park Avenue on the northwest corner. Is that correct?

A That's correct.

Q And Mr. Dasti was seen sitting in the lobby, and after being seen sitting in the lobby for a short while,

he left the hotel. Is that correct?

A Yes, that's correct, within five or ten minutes of my arrival, my seeing him there, he left.

Q So that when you went to the hotel on the 9th of January, you saw at some time, at some time you saw Mr. Dasti in the lobby of that hotel?

A That's correct.

Q By the way, sir, do you know Mr. Frank Cotroni?

A No, I don't.

Q Do you know the gent sitting there who just stands up for you, sir?

A No, I have never seen him before.

Q You didn't see him at the hotel?

A No.

Q At any time?

A No.

Q As a matter of fact, I guess it's fair to say that you never saw that man before in your life?

A Prior to being in court, no. That's right.

Q You indicate that there are approximately six agents working along with you. Is that correct?

A Approximately, yes.

Q These six agents weren't all together in a bunch of six?

A No.

Q So might they have been in the lobby?

A No, most of them would have been either on the street or in a car. The lobby is small. You can't stay there.

Q But, so that not to be obvious some were out in the car, some were reading a newspaper out in the street, something like that. Is that correct?

A Right.

Q Mr. Dasti I assume came out of the lobby of the hotel and proceeded east on 56th Street. Is that correct?

A No.

Q No?

A No.

Q When he left the hotel, didn't he cross East 56th Street -- I'm sorry. I got the east in the wrong place, he crossed 56th Street?

A Right.

Q And that's East 56th Street?

A At that point it's east.

Q In other words, Park Avenue is the east side?

A Exactly.

Q He crossed 56th and got into a vehicle, a

'66 gold vehicle?

A '66 gold Pontiac, yes.

Q Let me ask you this: At the time you first observed Mr. Dasti, was he carrying anything?

A No, I don't recall that he was. If anything he may have been holding a topcoat.

Q Other than a topcoat, I mean a package?

A No, sir.

Q A magazine?

A No, sir.

Q Just his coat?

A If anything it might have been just a top-coat.

Q Did he put the coat on?

A I don't recall.

Q In any event you didn't see anything other than his hand?

A No.

Q So he crossed the street and got into a car. Is that correct?

A That's correct.

Q In it with two unidentified males?

A That's correct.

Q This Mr. Cotroni I asked to stand up before

and whom you looked at, he was not one of those men in the car, was he?

A No, he wasn't.

Q That you're sure of?

A Yes.

Q You indicate that that vehicle was registered to a person named Vanacora?

A Yes, Anthony Vanacora.

Q Was it Anthony Vanacora that you saw in the vehicle?

A Yes, it was.

Q Do you know who the other chap was?

A The man in the vehicle was Anthony Vanacora, Sr., the car was registered to Junior.

Q The car was registered to the son but the father was in the vehicle?

A That's correct.

Q You say you don't know who the other chap was?

A No, I didn't.

Q At that time did you know a person named Oddo?

A Yes.

Q Was it Oddo in the car?

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A I couldn't tell.

Q It might have been?

A I only took a walk past the car on Vanacora's side and glanced in.

Q You could see Vanacora easily?

A Other than the fact that it was a male.

Q Would it be fair to say, without tying you down to it, it might have been Oddo but you couldn't see for sure?

A I couldn't say.

Q And some while after that, perhaps 20 or 25 minutes, Mr. Dasti got out of that car?

A That's correct.

Q And walked back to the hotel?

A That's right, recrossed 56th and reentered the hotel.

Q At that time he was carrying a package?

A He may have been, I don't know.

Q I hope you don't mind that I marked up a copy of your report but it's only a photostat. I ask you to look at Government's Exhibit 3500-8, and ask you if you recognize what that is?

A Yes, I do.

Q Sir, is that a copy of your report?

A Yes.

Q Would you look at the second paragraph thereof, sir. Just read it to yourself for a moment, sir.

Did you do that?

A Yes, sir.

Q Does that refresh your recollection as to whether or not when Mr. Dasti left the vehicle he was carrying a package?

A No. To my personal observation, I didn't see Mr. Dasti carrying a package.

Q Is it in here, in your report, incorporated in your report, that in fact when he left the vehicle --

MR. PUCCIO: I object.

THE COURT: Sustained as to form.

Does your report say that's the form --

Q Does your report say that Mr. Dasti was, when exiting the vehicle, was carrying a package?

A Yes, that's correct.

Q A small package?

A That's correct.

Q A package which you did not see when he went into the vehicle?

A No, I was giving him my personal observation.

Q You didn't see him carrying the package when he entered the vehicle?

A That's correct.

Q And you saw him go into the vehicle?

A That's correct.

Q After Mr. Dasti went into the hotel on the 9th, the vehicle left the area, is that correct?

A Yes.

Q The gold Pontiac left the area?

A That's correct.

Q There was no further observation of any activity of Mr. Dasti on that date?

A No, sir.

Q Would it be fair to say that he basically stayed at the Drake Hotel?

A Yes.

Q As a matter of fact, with the 24 hour surveillance he was at the Drake Hotel for the rest of the day or night?

A That's correct.

Q On the 10th of January, you observed Mr. Dasti go down to the hotel lobby, the Hotel Drake lobby, is that correct?

A A few times.

Q Well you got there about 8:00 o'clock?

A Yes, approximately 8:00 or 9:00 a.m.

Q There was still a 24 hour surveillance?

A Yes.

Q And there was still about six men on it?

A Well, during the night it may have been cut in half to two or three, 1:00 a.m. or 3:00 a.m.

Q What about after 9:00 o'clock?

A It would have come up to what was there on Saturday afternoon.

Q Without tying you down, around six people?

A Yes.

Q Posted in various spots for the purpose of taking into consideration positively that the man might go east or west or north or south and you had your men posted strategically, I assume?

A That's correct.

Q You saw Mr. Dasti in the lobby around 11:00?

A That's right.

Q He went back to the hotel room, I assume about 12:00?

A Well, presumably reenter the elevator.

Q He went upstairs?

A That's correct.

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Q He didn't leave the building?

A That's correct.

Q You did not see him meeting anybody, did you?

A In the morning, no sir.

Q He wasn't seen making any phone calls?

A No, sir.

Q About 1:45 he came back again, didn't he?

A That's correct.

Q Then he, at 2:00 o'clock he was in the lobby, 2:30 he went back to his hotel room, is that correct, or back up the elevator?

A That's correct.

Q You didn't follow him up to his room?

A No.

Q But he stayed in the building?

A That's correct.

Q About a half hour later, is it in your report that a Ford Thunderbird with a New York registration drove around the building or past the building?

A The Ford Thunderbird just drove down 56th Street past the front of the hotel and kept going.

Q Since it drove slowly past the hotel, in your vigilance you checked out the license plate?

A It was standard practice to take license

plates.

Q You took that license plate and that turned out to be a vehicle owned by Vanacora too?

A That's correct.

Q This was another son of Mr. Vanacora?

A That car was registered to Dominic Vanacora, another son.

Q Now, about 4:00 o'clock in the afternoon of the 10th of January, Mr. Dasti left this hotel?

A That's correct.

Q He started walking north on Park Avenue?

A Yes.

Q In other words, he walked a little bit east to the corner and then north towards 57th Street?

A That's correct.

Q You know where the Taft HOtel is?

A No, I don't know the exact location.

Q Would 51st and 7th Avenue be approximate?

A Well, it's possible. I don't know. The Americana is right there and the Hilton is right there. The Taft I am not sure. I have never been to the Taft.

Q Basically, I don't have the address in my head, it's in that area, 51st, 52nd but 7th Avenue?

A I don't know. I have never been to the

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Taft Hotel.

Q All right. I am sorry. In any event, it certainly isn't north of the Drake Hotel?

A That I don't know.

Q You have no idea where it's located?

A No.

Q In any event, you see Mr. Dastiwalking on Park Avenue north, north on Park Avenue and there was some confusion as to whether he took a cab, kept walking or exactly what happened to him?

A That's correct.

Q All six men lost him?

A Well, all six wouldn't have been following him.

Q However many were following him, however many were ahead of him, side, in back of him, in front of him, everybody lost him.

A That's correct.

MR. PUCCIO: For the record the Taft is at 50th Street and 7th Avenue.

MR. IANNUZZI: Fine, thank you.

Q So, 50th Street and 7th Avenue, will you accept as I do Mr. Puccio's description of it as being 50th and 7th Avenue?

A Okay.

Q That certainly isn't north of the Drake?

A No, it is not.

Q It's not even east of the Drake?

A No, it's west.

Q It's west and south.

A Right.

Q Anyway Mr. Dasti is going in a northerly direction, is lost and for about an hour nobody knows where he is?

A That's correct.

Q And around 6:00 o'clock he comes back to the hotel?

A Approximately, yes.

Q And he was by himself alone when he returned, wasn't he?

A Yes.

Q And he and his wife went to dinner in the hotel restaurant?

A Yes. They went into the restaurant in the hotel to have something to eat. They were both seen in the restaurant. I saw them both.

Q In the Drake having something to eat?

A That's correct.

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Q Then Mrs. Dasti went upstairs?

A Yes.

Q And Mr. Dasti went outside and took a taxi-cab?

A That's correct.

Q And suddenly again Mr. Dasti was lost to all six agents?

A Yes, at that time in the evening on 56th Street in front of the Drake Hotel --

MR. IANNUZZI: I object, your Honor.

THE COURT: Just answer the question. Is that correct?

THE WITNESS: Yes, that's correct.

Q So, all the agents wherever they were, lost Mr. Dasti again?

A That's correct.

Q However, some time later on about 10:00 o'clock he returned to his room?

A Yes. He was lost for approximately three hours and returned around 10:00 p.m.

Q Now, I would assume it would be fair to say that Mr. Dasti did not leave the hotel again that night?

A No, he did not leave. He may have left the hotel. He had a dog with him in the hotel, he may have

walked the dog.

Q So he walked outside near the sidewalk?

A He may have.

Q To the extent he may have left the hotel, he walked the dog to the corner or around the corner and back again?

A That's correct.

Q On the 11th, you indicate that Mr. Dasti left the hotel and went to a currency exchange company?

A Yes, he did, although those are not my personal observations.

Q He went to exchangea small amount of Canadian money in exchange for American money?

A Yes.

Q What is a small amount of money --

THE COURT: Did you make that observation or did somebody else?

THE WITNESS: No, I didn't.

THE COURT: Are you asking this witness to testify to what somebody else told him?

MR. IANNUZZI: I am asking him to testify what is in his report.

THE COURT: Any objection to that?

MR. PUCCIO: Yes.

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THE COURT: Sustained.

BY MR. IANNUZZI:

Q Do you know what the amount was?

MR. PUCCIO: Objection.

THE COURT: Sustained

Q Did you include in your report the fact that he went to the exchange --

THE COURT: Objection sustained, that's immaterial.

MR. IANNUZZI: I take exception to your Honor's remarks as to what is material or not, most respectfully, of course, sir.

THE COURT: Did you make those observations? I will ask you once more.

THE WITNESS: No, sir, I didn't.

THE COURT: You will only ask this witness the observations he made, what he saw.

MR. IANNUZZI: May I ask him about his report?

THE COURT: Next question, Mr. Iannuzzi.

MR. IANNUZZI: I want to be guided by your Honor's --

THE COURT: The jury is excused.

(The jury withdrew from the courtroom at 3:10 p.m.)

THE COURT: Ask the questions outside the hearing of the jury. Go ahead and I will rule on them.

MR. IANNUZZI: I just want to know how much money was exchanged.

THE COURT: Did you make these observations?

THE WITNESS: No.

THE COURT: Next question.

BY MR. IANNUZZI:

Q Did you include in your report the fact there was an exchange of a small amount of money in the Patrice Paradin Company?

A Yes, that's in my report.

Q Was that done in the ordinary course of your official duties?

A Yes, I incorporate observations of other agents in my report.

Q Did you ascertain how much money was exchanged?

A No.

MR. PUCCIO: I object to the whole line of testimony.

THE COURT: I haven't admitted any of it yet.

If you are trying to prove that an agent's

report is made in the regular course of business and can be introduced on that basis, you better be very careful because on that basis Mr. Puccio might overrule many reports.

MR. IANNUZZI: If your Honor please, I am merely asking this agent what was incorporated in this particular report.

THE COURT: For what purpose?

MR. IANNUZZI: Just to determine --

THE COURT: He said he didn't see it. The next question you ask was it made in the regular course of his business.

MR. IANNUZZI: That's right. I just wanted the amount.

THE COURT: The answer was it was made in the regular course of the business. Now, are you offering the report. That's the way to get the report in.

MR. IANNUZZI: I understand that. All I wanted to know was the amount of money.

THE COURT: I don't think it makes a bit of difference but you are not winning the point.

MR. IANNUZZI: I am just trying to --

THE COURT: It is wrong. I could say, "All

right, let it go in," but you spent about five minutes on that nonsense.

MR. IANNUZZI: I except to your Honor's reference to my exception as nonsense. I don't think what I am doing here is nonsense.

THE COURT: The examination as to how much money he exchanged and whether this witness regards it as a little or a lot is pure nonsense.

MR. IANNUZZI: I repeat the agent made those observations. If it's nonsense it's the agent's nonsense and not mine. I am only reading a report.

THE COURT: Do you understand my ruling?

MR. IANNUZZI: As I understand it you say I shouldn't ask what a small amount of money is.

THE COURT: Exactly.

Now, seat the jury.

(The jury entered the courtroom at 3:15 p.m.)

BY MR. IANNUZZI:

Q Mr. Gill, after Mr. Dasti exchanged the money, the Canadian money for the United States money in Paradin Company, around 10:00 a.m., he left the hotel by cab. Is that correct?

A Yes.

Q He went to the Bronx?

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A Yes, again that is not my personal observation in the Bronx, only the fact he left the hotel by cab.

Q Does it appear in your report that in fact he went to the Bronx?

A Yes.

Q In the taxi cab?

A That's correct.

Q And at this time I imagine the agents didn't lose him so they knew where the cab went and followed him?

THE COURT: I am allowing this because there is no objection, Mr. Puccio. Only because there is no objection.

MR. PUCCIO: I have no objection at this point.

Q Mr. Dasti met a Mr. Vanacora at that place?

MR. PUCCIO: I object.

THE COURT: Did you see it happen?

THE WITNESS: Objection sustained.

Q Does it appear in your report?

THE COURT: Don't read from something that is not in evidence, Mr. Iannuzzi.

MR. PUCCIO: I also object to that question.

THE COURT: Objection was sustained to that.

MR. IANNUZZI: There is an additional question.

THE COURT: This witness will testify and may testify to anything he saw or he heard. The mere fact it is in his report does not give you the right to ask those questions. If you want to get that report in evidence, there is a way of doing it.

MR. IANNUZZI: You mean by offering it, your Honor? I will do that.

THE COURT: Do you have any objection to it?

MR. PUCCIO: No objection.

THE COURT: Let it be marked. Marked in evidence.

MR. IANNUZZI: I don't have the original, your Honor. Mr. Puccio has it.

MR. PUCCIO: The original has another copy of the hotel record attached to it. The hotel record is already in evidence.

MR. IANNUZZI: We can detach that. It is already in evidence. There are some documents there, and I will offer the whole thing.

THE COURT: Any objection?

MR. PUCCIO: No objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit 3500-8, including four other copies of a document, are

25 marked Defendant Cotroni's Exhibit M in evidence.

(So marked)

BY MR. IANNUZZI:

Q Would it be fair to indicate that your report --

THE COURT: Objection sustained. I will not allow this witness just to be used to confirm what is in a report. If you would like the jury to hear the report, read it.

MR. IANNUZZI: I want to ask him a question as to what he has done and what he observed. I think that's perfectly proper and I am going to read the report to the jury, yes, sir.

THE COURT: Don't ask this witness what else in his report in addition to those matters that he observed. On the matters he observed, you can examine him. On the matters he has not observed but in the report just read the report. Don't use the witness solely for the purpose of having him confirm what is in the report.

MR. IANNUZZI: I don't intend to do that, sir. I will follow your instructions.

BY MR. IANNUZZI:

Q Did you, sir, in addition to your observations

make this report concerning not only your observations but some other people's observations?

A Yes, sir, I did.

Q And did, after Mr. Dasti left and got in the taxicab, did there come a time when he returned to the hotel on the 11th of January of 1971?

MR. IANNUZZI: May I have the witness look at his report, perhaps he wants to refer to it from time to time.

THE COURT: Do you need it to refresh your recollection?

THE WITNESS: No, sir.

(Continued on next page.)

Q Very well.

Did he return to the hotel about 3:00 p.m., sir?

A 3:30 p.m.

I don't recall saying that.

MR. IANNUZZI: May we have him read it so he will be able to refresh his recollection?

MR. PUCCIO: You are talking about January 11th?

MR. IANNUZZI: Yes.

(A document was handed to the witness.)

Q In Paragraph 5 there are, sir, three lines from the bottom of said paragraph.

Now did Mr. Dasti return to the hotel about 3:30?

MR. PUCCIO: I'm going to object.

Unless this witness made the observation, your Honor, if not, your HOnor, I object.

THE COURT: Did you see him return to the hotel?

THE WITNESS: No, sir, I didn't.

MR. IANNUZZI: Very well.

Q Now, in the evening, in the evening, sir, of January 11th, did Mr. Dasti -- was Mr. Dasti in the hotel with his wife, did you see him in the hotel with his wife?

A No, sir.

Q Did you observe him making -- exiting the hotel

at night?

A No, I personally did not, no.

Q Very well.

On January 12th now, sir, did Mr. Dasti stay close to the hotel all day?

A Yes, he did.

Q All day?

A Yes, he did.

Q Except in the evening when he went out to dinner to the Spindletop Restaurant.

THE COURT: Only your personal observations he is asking questions on.

A Yes, he went to the Spindletop Restaurant.

Q And then to the Copacabana?

A Then to the Copacabana, yes, sir.

Q But basically during the entire day except for those two things, he was at the hotel?

A That is correct.

Q Now, sir, let me ask you the following:

Did you at any time after January 9th, 1971, that is on January 10th, 1971 observe a person by the name of Paul Oddo?

A No, I did not.

Q On January 11th, 1971, did you observe a person

by the name of Paul Oddo?

A Well --

Q On January 12th, 1971, did you observe a person by the name of Paul Oddo?

THE COURT: Did you answer the question as to January 11th "yes"?

THE WITNESS: I can't positively say I saw Paul Oddo, no.

Q On January 10th, 11th or 12th?

A No, I can't positively say that I saw Paul Oddo.

Q On January 10th, did you see a person named Catania?

A No, I did not.

Q Did you see on January 11th a person named Catania?

A No, sir, I did not.

Q On January 12th, did you see a person named Catania?

A No, sir, I did not.

Q On January 10th, 11th and 12th did you make any observations of Mr. Dasti at the Waldorf Astoria?

A No, sir.

Q On January 10th, 11th and 12th, did you make any observations of Mr. Dasti at the Hotel Taft?

A No, sir.

Q On January 10th, 11th and 12th, did you make any observations of Mr. Dasti in the Hotel Riverside Plaza?

A No, sir.

Q On January 10th, 11th and 12th, did you see Mr. Dasti exchange any money with a Mr. Catania?

A No, sir.

Q On January 10th, 11th and 12th, did you see Mr. Dasti in any conversation with a Mr. Catania?

A No, sir.

Q At no time, sir, in your life have you ever seen a Mr. Cotroni?

A No, sir, I didn't.

THE COURT: All right, Mr. Klar?

MR. IANNUZZI: May I read this to the jury, sir.

THE COURT: Yes.

MR. IANNUZZI: Thank you, sir.

MR. PUCCIO: Your Honor, I have an application with respect to that.

THE COURT: The jury may be excused.

(At 3:25 p.m. the jury left the courtroom.)

MR. PUCCIO: This report is entitled, "Surveillance of Frank Dasti, principal in AM00003, "And there are other, there is other file numbers on it.

Your Honor, I would object to reading of that title or to any of the file numbers, just the information.

MR. IANNUZZI: Judge, I wouldn't have any objection to even just leaving out the file numbers--

MR. PUCCIO: And also as to the individual referred to as "Thomas Pytel, et al."

MR. IANNUZZI: We can strike it right off.

MR. PUCCIO: As far as the surveillance, I have no objection.

THE COURT: All right.

Seat the jury.

MR. IANNUZZI: I won't read it at all.

(The jury then took its place in the jury box.)

MR. IANNUZZI: (Addressing jury.) This is a report with reference to the surveillance of Frank Dasti, and this is the synopsis:

"This report relates to the surveillance of Frank and Marguerite Dasti at New York City from January 9th, 1971 to January 13th, 1971."

Now the details are as follows:

"1. On January 9, 1971, SAIC Kevin D. Gallagher, MDO, notified GS Mortimer L. Benjamin that suspect Frank Dasti had left Montreal, Canada for New York City and was going to register at the Drake Hotel,

440 Park Avenue, New York, New York. Upon receipt of this information, immediate plans were made for a 24 hour surveillance of Dasti.

"2. On January 9th, 1971, S/A Dennis Silvestri arrived at the Hotel Drake at approximately 5:30 p.m. and saw Dasti sitting in the lobby of the hotel. Subsequently, it was ascertained that he and his wife had checked into the hotel at 3:30 p.m., that afternoon. After a few minutes of waiting in the lobby Dasti left the hotel and crossed East 56th Street, and entered a 1966 gold Pontiac, New York registration BJ2762. Waiting in the vehicle were ~~to~~ two unidentified males. At approximately 6:00 p.m., S/A Mortimer Moriarty saw Dasti exit the vehicle carrying a small package and return to his hotel room. The vehicle quickly left the area and was immediately lost from view. According to New York State Motor Vehicle records BJ2762 is registered to Anthony Vanacore, 2111 Hone Avenue, Bronx, New York, dob: 6-15-50. This is the son of Anthony Vanacore O Tony Van, who is well documented in previous memoranda in this file.

"3. On January 10, 1971, at approximately 11:00 a.m., Dasti went down to the hotel lobby and waited for approximately one hour and returned to his

room around 12:00 p.m. During this time Dasti was not seen making any phone calls or meeting anybody. At approximately 1:45 p.m. he again left his room and returned to the lobby. At 2:00 p.m., Dasti was overheard by S/A Mieves attempting to make a call to Montreal from a public phone in the lower lobby. Around 2:30 p.m., he returned to his room. Approximately 1/2 hour later Agents Shea and Smith noticed a 1965 Ford Thunderbird, New York Registration, 2466XN, drive slowly past the hotel entrance. The car turned north on Park Avenue and left the area. This vehicle is registered to Dominick Vanacore, 2111 Hone Avenue, Bronx, New York, dob: 9/1/48. He is also the son of suspect Anthony Vanacore.

"4. Shortly after 4:00 p.m., Dasti left the hotel and walked north on Park Avenue to 57th Street, At this point, there was seen confusion as to whether or not he grabbed a cab or continued on foot. In any event, Dasti was lost for approximately 1 hour. Around 6:00 p.m. he returned to the hotel alone and went with his wife to the hotel restaurant for dinner. After dinner, Dasti's wife returned to their room and he left the hote, grabbed a cab and was lost almost immediately in heavy traffic. He was not seen again

until 10:00 p.m., when he returned to his room.

"5. On the morning of January 11, 1971, Dasti walked to Parkea Company, Inc., 636 5th Avenue to exchange a small amount of Canadian money for U.S. currency. Around 10:00 a.m., he left the hotel by cab and went to the Jerome Cafeteria, 48 East 161st Street, Bronx, New York. At the cafeteria, Anthony Vanacore, and another unidentified male pulled up in the Thunderbird, New York registration 2466XN and Dasti got into the car. They were followed for approximately 10 blocks at which time it became obvious that they were circling the same street over and over looking for a tail. Dasti returned to the hotel about 3:30 p.m. That evening after eating dinner with his wife, he went alone to the Camel Driver Restaurant, 72 East 56th Street, New York, New York, where he made three telephone calls and then returned to the hotel.

"6. On January 12, 1971, Dasti stayed close to the hotel all day. In the evening, he and his wife went to the Spindle Top Restaurant, 254 West 47th Street, New York and then to the Copacabana Restaurant, 10 East 60th Street, New York.

"7. On January 13, 1971, they checked out of the Drake Hotel at 6:05 a.m. apparently on route to

Montreal, Canada.

"8. Attached to this report are Dasti's registration card and hotel bill."

And if your Honot pleases, we already have the hotel bill and the registration card, I would not bother reading them at this moment, but there is also a charge record on a charge account paying the Drake Hotel bill in the name of Frank Dasti, the account number, well, it looks like Diners Club 0571338029200AX, and then there is a registration or reservation of Room 19 for Dasti, Mr. & Mrs., a double room, $44, "Will send deposit tomorrow morning, Montreal, Canada."

I have no further questions, -- well --

BY MR. IANNUZZI:

Q Were there other agents with you?

A There was Agent Dennis Sylvesti -- do you mean all weekend?

Q Yes, sir, if you could.

A Dennis Sylvesti, Frederick Smith, Patrick Shea, Robert Neaves, Moriarty -- that is all I can recall right now.

Q That would be more or less the list of them, there might be one more or less?

A That is correct.

MR. IANNUZZI: Very well. Thank you very much, sir.

(Continued on next page)

Q Mr. Gill, on January 9th, when you first observed Mr. Dasti in the lobby of the Drake Hotel, were you inside the hotel?

A Well, I walked into the lobby.

Q And were there any other agents with you?

A No, there weren't.

Q Were there anyother agents outside the lobby?

A Yes.

Q Outside the hotel?

A Yes.

Q And who were they?

A It would have been the ones that I just mentioned.

Q In other words the five, the other five?

A Right.

Q And did these other five agents have automobiles?

A Well, there wouldn't have been five automobiles, there may have been two or three automobiles.

Q Did you have an automobile of your own?

A Yes, I did.

Q And were there any other agents assigned to your car as opposed to someone else's car?

A I don't really recall, but I would think I would have drivn up with another agent.

Q So it was possible there were three cars --

withdrawn.

Now, Mr. Dasti left the hotel to cross East 56th Street, and were you outside the hotel at the time or inside?

A No, outside.

Q And where wer e you personally in relation to the entrance of the hotel on 56th Street?

A West of the hotel.

Q And were you with any other agent at that moment when he exited the hotel?

A I don't recall.

Q Was Special Agent Moriarty with you?

A He was -- he was in the street, yes.

Q With you?

A Well, no, no, no. In other words we weren't standing together.

Q How far was he?

A In other words we kept walking up and down the street and re-crossing the street rather than standing there.

Q How far away from you was Special Agent MOrarty when Mr. Dasti left the hotel?

A I don't recall, I just remember thatI was about a halfway west on 56th Street towards Madison Avenue.

Q Then he enters this automobile; is that right?

A That is correct.

Q And he was carrying a top coat?

A He may have been carrying a topcoat.

Q And I think you said he stayed in the car about twenty-five minutes?

A Approximately.

Q During the course of that twenty-five minutes, of course you were observing the automobile and the people inside?

A That is correct.

Q Was Agent Moriarty with you at any point during this twenty-five minute interval that Mr. Dasti was in the car?

A Well, he was in the area there also watching the car, but again whether we stopped and talked to each other at that time I don't remember.

Q Now, around 6:00 o'clock, did Mr. Dasti get out of the car; is that right?

A Yes, that is correct.

Q And did you see him there, did you see him get out of the car?

A Yes.

Q And you don't recall if he had his topcoat on or whether he was carrying it; is that correct?

A No, I don't, again I was about a half block away.

Q But you did see him carrying the package?

A No, no.

To clarify that, if you are talking about a package, you know, a suitcase or something like that I would have seen that from half a block, but a small package, no.

Q Did you observe him exiting with any kind of a package, anything in his hands?

A No, I did not.

Q Now, Mr. Dasti goes back into the hotel?

A That is correct.

Q Does he come out again that day?

A No, he does not, if anything he may have come outlate in the afternoon to walk the dog, otherthan that. no.

Q Did you observe him having dinner with his wife?

A No.

Q Now, on January 10th, you said at approximately 11:00 o'clock Mr. Dasti came down into the lobby.

Now what time did you arrive at the Drake Hotel that morning?

A It would have been around 8:00 or 9:00 in the morning.

Q So between 8:00 and 9:00, at thetime of your arrival, until 11:00, youdidn't see Mr. Dasti?

A That is correct, no, I didn't.

Q The first time you noticed him I assume was when he came off the elevator?

A Correct.

Q He doesn't meet with anyone, does he?

A No, he does not.

Q And he goes back up and he comes down.

A He sat in the lobby.

Q He sat down in the lobby awhile and then went upstairs?

A Yes, and then came down the elevator.

Q He came down again?

A Yes.

Q But he didn't meet with anyone when he came down?

A No, he did not.

Q Then about 4:00 o'clock in the afternoon Mr Dasti leaves the hotel?

A Correct.

Q Walks north on Madison Avenue?

A That is correct.

Q Were you following Mr. Dasti at that point, were

you still there?

A Well, from a distance, not, not directly behind him, no.

Q How far behind him were you?

A Approximately one block.

Q And were these other five agents still with you, and when I say with you I mean in the area?

A You mean in the area?

Yes, yes.

Q In the area?

A Yes.

Q Some of them may have been across the street?

A Yes, exactly.

Q On the west side?

A On the east side.

Q On the east side, and one block north?

A On Park Avenue, yes.

Q But you were all in the area?

A That is correct.

Q All of you watching Mr. Dasti all the time?

A No, that is not so.

Q You were not watching Mr. Dasti?

A No, no, for instance if I am walking, I was walking about a block behind him, I couldn't see him all the

time.

Q But you knew in this type of surveillance if you didn't see him, and that is the purpose of the multi-surveillance, someone was there to watch him.

A Other agents were closer, yes.

Q Now, on the tenth, around 4:00 o'clock the agents all on foot -- were they all onfoot or were they in their cars?

A At that time the majority were all on foot.

Q Do you recall if any of them were in their cars?

A No, I don't, no, I don't.

Q And you say you were confused as to whether or not he grabbed a cab or continued on foot, and that is your confusion, not Mr. Dasti's, you didn't know whether --

A That is correct.

Q Right, I assume the confusion was among the six of you; is that right?

A Yes, that is correct.

Q The six, you couldn't decide if he got into a cab or --

A He was lost from view and we didn't find him and nobody knew whether he continued walking or grabbed a taxi cab.

Q Then later on he comes back to the hotel?

A Yes.

Q And he has dinner?

A Yes.

Q And after dinner he left the hotel?

A Yes, he does.

Q And you say he grabbed a cab; is that right?

A Yes.

Q Where was that cab?

A Right in front of the hotel.

Q He grabbed a cab right in front of the hotel?

A Yes, right in front of the hotel.

Q Did he hail thecab or did the doorman hail the cab?

A No, I believe the doorman hailed the cab.

Q And he got right in and drove off?

A Correct.

Q Nothing unusual?

A Correct.

Q Now, did you indicate before that at no time between the tenth and the end of your surveillance did you see Mr. Dasti with anyone by the name of Giuseppi Catania? Is that right?

A That is correct.

Q You didn't see Mr. Dasti with Mr. Paul Oddo -- withdrawn.

A No.

Q And at no time during your surveillance did you see Mr. Dasti at the Taft Hotel or the Riverside Plaza Hotel?

A No, that is correct.

Q Or for that matter the Waldorf Astoria?

A No, I didn't.

Q Now, on January 12th, you were conducting a personal surveillance again.

MR. PUCCIO: You mean the 11th?

MR. KLAR: No, the 12th.

A The 12th, just for a short while in the morning.

Q About what time of day did you pick up the surveillance?

A It would have been the same time, around 8:00 or 9:00 in the morning.

Q 8:00 or 9:00?

A Yes.

Q What time did you end your surveillance that day?

A I think I personally left early in the afternoon.

Q And you say Mr.Dasti stayed close to the hotel all day -- withdrawn.

MR. KLAR: I have no further questions.

THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Did you, Mr. Gill, or any other narcotic agent on this surveillance spend any time surveilling the Hotel Taft, the Hotel Riverside Plaza or the Waldorf Astoria?

A No, none, no one did.

Q On any one of these dates, the 9th, the 10th, the 11th, the 12th and the 13th?

A No, no agent did.

Q You say that no agents were at those hotels at all?

A THat is correct, no.

Q You testified I believe that Mr. Dasti was lost from the surveillance, lost from view, in other words, you didn't observe him on January 10, 1971, really on two occasions?

A Yes, on two occasions, the afternoon and in the evening.

Q When was thefirst occasion, between what times?

A The first --

Q Approximately.

A The first occasion would have been approximately 4:00 o'clock or a few minutes after 4:00, 4:10, when we lost him on foot.

Q And you lost him at 4:00 or 4:10 until when? Until when did you lose him?

A Until around -- well, I didn't see him again until 6:00 o'clock, 6:00 p.m.

Q So he was lost until 6:00 o'clock, and at that time he was at the Drake Hotel?

A Right back at the Drake again.

Q Then he was lost again, I believe you said, from shortly before 7:00 o'clock.

A Later on in the evening, yes, approximately 6:30, 6:45.

Q Until when?

A Until 10:00 o'clock, maybe a little later.

MR. PUCCIO: I have nothing further, your Honor.

THE COURT: Any re-cross?

MR. IANNUZZI: Yes, sir, if I may have a few short questions.

RE-CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Gill, although you didn't have any men making surveillances at the Riverside Plaza Hotel or the Taft Hotel or the Waldorf Astoria Hotel during the period January 9th, to January 13th, you did have twenty-four hour a day surveillance on Mr. Dasti; is that right?

A We had twenty-four hour surveillance at the Drake Hotel.

Q Were you watching the hotels or were you watching Mr. Dasti?

A We were watching Mr. Dasti.

Q Did you have twenty-four hour a day surveillance on Mr. Dasti?

A We had men stationed to watch Mr. Dasti twenty-fours.

Q So you were watching him for twenty-four hours a day.

A We were watching him twenty-four hours a day.

Q That was their job, right?

A Yes, it was.

Q The purpose of the twenty-four hour surveillance was to ascertain for twenty-four hours a day, January 9th, 10th, 11th, 12th and 13th, where Dasti was, right?

A To establish as much as possible when he left the hotel, where he went, yes.

Q All right.

Now, by the way, did you receive from Callagher any notification to observe a Mr. Catania when he came to New York?

A No, I don't believe so.

Q Did you, by the way, report to or go to any airport -- withdrawn.

Were youtold that Catania had left Canada on the plane or to take a plane?

A Is that Catania?

Q Catania, Catania.

A No, no.

Q Did you go to the airport, either LaGuardia or Kennedy or Newark, any airport in the Metropolitan area to observe with other agents, well, to observe Dasti on a twenty-four hour basis?

A Yes.

Q Now although you lost Mr. Dasti on the 9th, and 10th, he wasn't lost on January 11th, at all, was he? He was at the Drake Hotel all day; right?

A He wasn't lost, just on the 10th.

Q Just on the 10th, but on the 11th, he wasn't lost at all, was he?

A No.

Q He was at the hotel all day?

A With the exception of in the evening, I believe.

Q Well, let us take it up to the point --

A Here again, see, these are not my personal observations on the 11th.

Q All right.

In any event, after he came back from the Bronx, after he came back from the Bronx on the 11th -- maybe I confused you, okay, I don't mean to -- after he came back from the Bronx on the 11th, he went back to his hotel and he stayed there until he went out to dinner.

MR. PUCCIO: I'm going to object to any questions that are based upon someone else's observations. The report of other people's observations is already in evidence

THE COURT: Yes, but I will allow the question in the form:

Did so-and-so tell you, I will allow that.

BY MR. IANNUZZI:

Q Did anyone tell you that he returned to the hotel at 3:30 in the afternoon after being in the Bronx?

A That is correct, yes, someone, another agent did tell me.

Q And from the time, 10:00 o'clock in the morning

-- let me withdraw that.

When he went to the Bronx, did someone tell you that he got into an automobile, a Thunderbird, and that thinking they were followed they were going around in a circle?

A Yes, that is correct.

Q And although it seemed they were looking as if it was someone following them, they weren't lost.

A That I don't know.

Q You don't indicate -- is it in any fashion indicated to you?

A It was the agents' decision, they thought they knew that they were being followed and the agents' decision was to drop the surveillance at that point.

Q In any event, they left them in theBronx?

A That is correct, sir.

Q Then he returned, and when he returned from the Bronx he went back to the hotel and didn't leave until the evening?

A Yes, I believe that is correct.

MR. IANNUZZI: Thank you very much sir.

THE COURT: Anything further?

Mr. Klar?

MR. KLAR: I have no questions.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Gill, according to the report, on the 11th, Mr. Dasti was observed in the Bronx at 10:00 o'clock: is that correct?

THE COURT: I'm not going to allow you to ask the question to which I sustained an objection to Mr. Iannuzzi's question.

MR. PUCCIO: All right.

Q Did you make any observations of Mr. Dasti in the Bronx at all on January 11th?

A No, I didn't.

Q What time of day did you see Mr. Dasti?

A In the morning.

Q For the first time?

A In the morning, it would have been approximately 10:00 a.m, 10:00, 10:00 or 11:00 a.m.

Q And when was the next time you saw himthat day, if at all?

A No, I didn't see him anymore that day, I personally didn't see him.

Q The last time you saw him that day was 10:00 a.m.?

A Yes, when he left.

MR. PUCCIO: No further questions.

MR. IANNUZZI: Just I have two, I will try to restrict it to that anyway.

Pardon me for a moment, sir.

(Continued on next page.)

DSmm

RE-CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Was Mr. Vanacore under twenty-four hour observation?

A No, he was not.

Q Did you put Mr. Oddo under twenty-four hour observation?

A No, we did not.

Q Did Mr. Gallagher indicate to you that Mr. Vanacore and Mr. Oddo had been in Montreal?

A Previously? Yes. Well, we knew that, yes.

Q You knew that?

A Yes.

Q During this occasion, however, neither Oddo or Vanacore were put under observation?

A No, we couldn't. We didn't have the manpower.

Q Although you didn't go to the Bronx to observe Mr.Dasti in the Bronx yourself, is there any question in your mind that he was there?

THE COURT: May I have the question?

(Record read.)

MR. PUCCIO: Objection.

THE COURT: Objection sustained.

Q Were you advised by the agents --

MR. PUCCIO: I object to what he was advised.

THE COURT: I will allow it. On the basis of the report.

Q Were you advised, sir, by other agents before incorporating it in your report or writing that in your report, the fact that Mr.Dasti was in the Bronx?

A Yes.

Q And is there any dictation in your report that in fact they lost Mr. Dasti in the Bronx?

MR. PUCCIO: I object your Honor.

THE COURT: Objection sustained.

The report is in evidence.

MR. IANNUZZI: Very well, sir.

I have no further questions.

THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Were you ever advised, Mr. Gill, that Mr. Dasti was under constant observation onJanuary 11th, 1971, during the entire day?

MR. IANNUZZI: I'm going to object to that question on the basis of the former objection, sir.

THE COURT: May I have the question.

(Record read.)

THE COURT: Overruled. I will allow it.

A I was advised that he was not under constant observation that day.

THE COURT: It explains the report that is marked in evidence.

Q Were you ever advised Mr.Gill, that Mr. Dasti was lost from view on January 11th, 1971?

A Yes.

Q Were you ever advised as to the time on January 11th, 1971 that he was lost from view?

A Approximately, yes.

Q Well, tell us approximately -- tell us what you were advised concerning when he was lost fromview on January 11th?

A I was advised --

MR. KLAR: I object as to the hearsay.

THE COURT: Overruled. Of course it's hearsay. But it is in evidence. And the manner of composing the document is a proper area of examination. How was it made up? On what view? Who told him? It is all proper. Go ahead.

A I was advised by Agent Smith that the way the car was driving around, circling the same blocks, that they felt that the surveillance had been seen and they were going

to drop the surveillance rather than stay with it.

Q So you would advise --

THE COURT: Was it based on that information that you inserted that in the report?

THE WITNESS: Yes, sir.

Q So you were advised, Mr.Gill, that Mr. Dasti was not observed in fact from approximately 10:00 o'clock to 3:30 in the afternoon when he returned to the Drake Hotel?

A Yes sir, that is correct.

MR. PUCCIO: No further questions.

RE-CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Gill, on January 9, 1971, when Mr. Dasti was --

MR. IANNUZZI: Withdrawn.

Q On January 10th, when Mr. Dasti was lost, approximately whatever time it was, you entered in your report that he was lost? Is that correct?

A Well, on which occasion?

Q January 10th?

A On which occasion.

Q He was lost twice on that day? Correct?

A Yes.

Q On both times during that day did you indicate

that he was lost?

A Yes I did.

Q And during the time that he was lost, did you incorporate in your report how long he was lost?

A Yes, I believe I did.

Q And on January 11th, sir, although you testified what someone told you, when they told youthat, did you incorporate that in your report, sir?

A Yes I did.

Q Did you incorporate that he was lost, sir?

A Incorporated the fact that the surveillance was deliberately dropped

Q You did, sir?

A Yes.

Q I would appreciate very much if youwould point out where it is.

MR. IANNUZZI: May we have the original?

(Document handed to Mr. Iannuzzi.)

Q (Continuing) I hand you Exhibit 3500-8 and askyou to look at that. Will you please tell me on January 11th, where you indicate that the surveillance was deliberately stopped?

THE COURT: Exhibit M in evidence.

MR. IANNUZZI: N?

THE COURT: M.

A In paragraph five.

Q Pardon me, sir?

A Paragraph five.

Q Yes. You say in paragraph five, sir, the car was going in circles and apparently the people in it were looking for a tail? Correct? Is that what you said?

A Well, I can read the exact sentence.

Q No, I am asking you the question, sir. I am asking you this question. Do you say in that report that the car in the Bronx was circling the same street over and over looking for a tail?

A Yes.

Q Do you say there, sir, that the surveillance was dropped?

A No, I don't use the word dropped.

Q Did yousay that the surveillance was terminated?

MR. PUCCIO: I object. The report speaks for itself.

THE COURT: Objection sustained.

Q Did you in any fashion indicate anything more in your report?

MR. PUCCIO: Same objection.

MR. IANNUZZI: If your Honor please, Mr. Puccio

has asked --

THE COURT: I know all about it. Now please finish the question.

Q Did you in any fashion, sir, indicate that Mr. Dasti was lost?

THE COURT: Is there any objection now, Mr. Puccio?

MR. PUCCIO: Objection.

THE COURT: Objection sustained.

Q Did you indicate in your report that Mr.Dasti was not observed for any period of time?

MR. PUCCIO: Same objection.

THE COURT: Objection sustained.

Q Did you indicate in your report for how long --

THE COURT: I wont allow any more questions about what is indicated in the report. It is in evidence.

MR. IANNUZZI: I have no further questions.

I will rely on the report, Judge.

MR. PUCCIO: No further questions.

THE COURT: Anything further?

MR. KLAR: No.

THE COURT: You may step down.

MR. PUCCIO: We recall Mr. Couture.

B E R N A R D C O U T U R E, recalled as a witness having

previously been duly sworn, resumed the stand and testified further as follows:

MR. IANNUZZI: I know we are going to retire in about fifteen minutes I feel a bit ill. Would it be inconvenient to recess now?

THE COURT: It is up to Mr. Puccio. It seems to be a short conversation.

Would you rather just go over until Monday?

MR. PUCCIO: Whatever your Honor wishes.

THE COURT: You may step down.

We will suspend at this point. I ask you to return on Monday in time to continue the case at 10:00 o'clock again. Please continue your close adherence to time. Get into the courthouse about twenty to ten or a quarter to ten, register first downstairs then come to the Juryroom adjoining the courtroom in time so that we can continue the case promptly at 10:00 o'clock.

In the meantime don't read any newspapers. Don't watch the news programs on television, or do not listen to them on radio. And do not discuss the case with any third parties, your family, friends or anyone else. And when you reassemble Monday please do not discuss the case among yourselves.

A 1988

Leave the books on your seat and they will be gathered up and returned to you on Monday.

(The Jury is excused.)

(The Jury thereupon retired fromthe courtroom.)

THE COURT: I expect all requests to charge at the end of the day on Monday.

MR. IANNUZZI: Could you extend that to Tuesday morning?

THE COURT: No, I can't, because there is a possibility that I might charge on Tuesday or Wednesday. I want the opportunity to read them. And I have no opportunity except when I take them home with me at night.

MR. IANNUZZI: Very well, sir.

THE COURT: I signed the memorandum decision and order --

MR. PUCCIO: Could we get a copy?

THE COURT: -- denying the motion to suppress. And my law clerk is Xeroxing them at the present time. So if you remain in the courtroom for about five minutes you will be favored with a copy.

MR. IANNUZZI: Very well. Have a pleasant weekend.

THE COURT: Thank you. The same to you.

MR. IANNUZZI: And have a good check-up.

THE COURT: Well --

(Thereupon at 4:05 o'clock p.m an adjournment was taken to Monday, January 13th, 1975 at 10:00 o'clock a.m

A 1989

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A 1990

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A 1991

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U. S. DISTRICT COURT E.D. N.Y.
JAN 28 1975
TIME A.M.
P.M.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

-against- :

FRANK COTRONI, FRANK DASTI, :

Defendants. :

----------x

73-CR-898

United States Courthouse
Brooklyn, New York

January 13, 1975
10:25 o'clock A.M.

B e f o r e :

HONORABLE JACOB MISHLER, Chief U.S.D.J.

and a jury

MICHAEL PICOZZI
OFFICIAL COURT REPORTER

102

A 1992

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: THOMAS PUCCIO, ESQ.
Assistant U.S. Attorney

JOHN N. IANNUZZI, ESQ.
Attorney for Defendant Cotroni

MICHAEL KLAR, ESQ.
Attorney for Defendant Dasti

A 1993

MR. PUCCIO: Since there is a reporter here now, I would like to repeat what I said, I am handing over an envelope containing logs of telephone conversations intercepted by the Quebec police force which do not pertain to this case, but are within the December-January '71 time period.

The Quebec police force does not wish to make this material public. Therefore, I am submitting it to the Court for an in camera inspection and ask that it be sealed in the event of an appeal.

THE CLERK: This document is marked Government's Exhibit 43 for identification.

MR. IANNUZZI: On the representation of Mr. Puccio, that these documents have nothing to do with the case, and rather relate to corruption or some other things in Canada, I have no interest in them. However, if your Honor has an opportunity to read them and your Honor decides there is something relevant, I would appreciate having them.

If they have nothing to do with the case, I have no objection to their being sealed.

THE COURT: I will review these.

MR. IANNUZZI: May I say, in reference to a request I made the other day concerning a particular conversation with the defendant Cotroni indicating he

was coming from a bordello or brothel, and Mr. Puccio was going --

THE COURT: What do you want to do about that?

MR. PUCCIO: I haven't had a chance to --

MR. IANNUZZI: I suggest that before we introduce it -- I suggest we make it some sort of an innocuous place.

THE COURT: I am not going to lie about it. We will just block it out. I am not going to say he came from church.

MR. IANNUZZI: We can say he came from a steambath or something.

THE COURT: Which conversation is it in?

MR. PUCCIO: Number sixteen.

THE COURT: We have time for that. Can you make a decision on it now, Mr. Puccio?

If you can't, think it over and tell me before you are ready to put it in.

MR. IANNUZZI: In reference to our time schedule, as you know, we are here on trial every day and we can't see our clients except on Saturday. I don't know when Mr. Puccio is going to terminate, he said he has eighteen witnesses.

THE COURT: He said today, this morning.

MR. IANNUZZI: He said he would try to finish

today.

THE COURT: Don't you have your witnesses ready to start this afternoon?

MR. IANNUZZI: No.

THE COURT: You better get them.

MR. IANNUZZI: I would like an opportunity, when your Honor takes a particular period of time off, to perhaps --

THE COURT: No, no, you start your witnesses today.

MR. IANNUZZI: I am talking about some time with the defendant. We don't have time to talk to the defendant.

THE COURT: We will worry about that.

MR. PUCCIO: I don't think we are going to finish today anyway.

THE COURT: We are going to try our best.

MR. PUCCIO: We always try our best.

MR. IANNUZZI: Perhaps tomorrow we can suspend earlier in the afternoon, as they go from here to jail --

THE COURT: I will make arrangements for you to see them at the end of the day at the jail. I am not suspending the trial for you to talk to your client.

I don't know what has been happening since before the trial started.

A 1996

MR. IANNUZZI: We only have a few minutes --

THE COURT: What happened since November -- what was the date?

MR. IANNUZZI: October 31st.

THE COURT: What happened?

MR. IANNUZZI: We have seen the defendants since then, but as the case developed, there are certain things --

THE COURT: What happened Saturdays?

MR. IANNUZZI: I have been there every Saturday.

THE COURT: Then you had time.

MR. IANNUZZI: After the case, I would like an hour or so to speak to the defendant. I don't mind if it is at West Street.

THE COURT: Let's see how it goes.

Seat the jury.

(The jury is in the jury box.)

THE COURT: Good morning, ladies and gentlemen. We are ready to start.

When we suspended on Friday, we were going to start to listen to a tape.

MR. PUCCIO: Prior to that, I have additional questions to ask Mr. Couture.

THE COURT: Will you please take the stand, mr. Couture.

A 1997

BERNARD COUTURE, called as a witness, having been previously duly sworn by the Clerk of the Court, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. PUCCIO: (continued)

Q Mr. Couture, I would like to direct your attention to January 10, 1971.

On that day, did you intercept a telephone call or tape record a telephone conversation between a Mr. Joey Horvath and Mr. Frank Cotroni?

A Yes.

Q Was that an incoming call placed to Mr. Cotroni's residence by Mr. Horvath?

A Yes.

Q After a tape recording of this conversation was made, did you listen to the conversation?

A Yes, sir, I did.

Q Did you make up a log of this conversation or a summary?

A Yes, I made a summary.

Q Now, did you retain the actual tape recording, or was the tape recording destroyed?

A It is destroyed, sir.

Q But you do still have the log of that conversation?

A Yes, sir.

Q Now, tell us, as best you can recall, what Mr. Cotroni said to Mr. Horvath and what Mr. Horvath said to Mr. Cotroni during that conversation?

If you feel you have to make reference to the log of that conversation, do that.

A Yes. It was an incoming call. Mr. Horvath to Mr. Frank Cotroni, which was at his residence, the residence of Mr. Cotroni. Mr. Horvath telling Mr. --

MR. IANNUZZI: May I make an objection. This conversation would be hearsay inasmuch as Mr. Horvath--

THE COURT: Which conversation is that?

MR. PUCCIO: Your Honor, this is a conversation, summary of a conversation intercepted on January 10, 1971.

We don't have the tape recording, but there was a log made and he listened to the conversation.

THE COURT: The jury is excused.

(The jury left the courtroom.)

THE COURT: May I know what the conversation is about?

MR. PUCCIO: The log -- it is contained in the discovery material, your Honor --

MR. IANNUZZI: Yes, sir.

MR. PUCCIO: It's on the Vega Five project.

THE COURT: Let the witness testify to what the conversation was.

THE WITNESS: At that time, Mr. Horvath told Mr. Cotroni that he had spoken to Mr. Dasti in the morning and Horvath said that Dasti finds it is dangerous to do what they have to do. However, Horvath assures Cotroni that Dasti will do what he has to do.

BY MR. PUCCIO:

Q Anything else?

A Horvath asked Cotroni where he will be tonight and Cotroni tells him he wants to be at the Casa Loma around 11:00 p.m. on the same date.

THE COURT: Who is Horvath? How is he identified?

MR. PUCCIO: Well, it is a conversation between Horvath --

THE COURT: Who is he?

MR. PUCCIO: He does answer the phone in some of the Victoria Sporting Club tapes. He is a partner of Mr. Dasti. But Cotroni is speaking to him.

MR. IANNUZZI: Cotroni is speaking to Horvath and Horvath isn't in the case and it is hearsay.

A 2000

Couture-direct

THE COURT: It is hearsay the same as the tapes are. This is secondary evidence. The tapes are no longer available. This is the same as if this witness had listened to the conversation, intercepted and listened to it, and identified a voice of the defendant. It is hearsay. And just as an admission made by a defendant is an exception to the hearsay rule, so is this.

I find that the destruction of the tape was not in bad faith and the conversation, summary of the conversation, may be introduced under United States against Garcilaso DeNuevo, 489, Fed. 2d, 761, cited in People against Conroy, 34, New York, Sub 2d, 917. The additional cite is 359 -- I'm sorry, 34 New York 2d, 917.

You have an exception.

MR. IANNUZZI: May I indicate I am not making an objection only on that account, the conversation with Horvath, despite the fact it is to Cotroni, the conversation of Horvath is not in the case.

THE COURT: You just heard it. You mean only Cotroni's statements should be in without Horvath's? Because you say he is not in the case?

MR. IANNUZZI: This is Mr. Puccio saying he is

a partner in the Victoria Sporting Club.

MR. PUCCIO: In the bill of particulars, he is a co-conspirator --

MR. IANNUZZI: I made an objection to adding co-conspirators by way of bill of particulars.

THE COURT: I wouldn't care if Horvath was unidentified completely, it is immaterial for these purposes.

MR. IANNUZZI: I would suggest further, I don't think this conversation, by the way, is on the wire of the Victoria Sporting Club and it does not support the contention he was involved in the Victoria Sporting--

MR. PUCCIO: Horvath's voice has already been heard by the jury. He answered the phone in the club. He is placing a call to Cotroni's residence.

THE COURT: Seat the jury.

(The jury is in the jury box.)

MR. IANNUZZI: If your Honor pleases, in conjunction with this, this is a conversation he recollects and not --

THE COURT: Of course. You recollect what the conversation is, what one said to the other, and nothing else?

THE WITNESS: Yes, sir.

A 2002
Couture-direct

BY MR. PUCCIO:

Q Would you tell us, please, as best you can recall, what Mr. Horvath said to Mr. Cotroni and what Mr. Cotroni said to Mr. Horvath during this conversation that was intercepted on January 10, 1971?

A Yes, sir. At that time, Mr. Horvath told Cotroni that he just had spoken to Mr. Dasti and Dasti told him that it was very dangerous to do what they have to do. However, Mr. Cotroni -- Mr. Horvath said to Mr. Cotroni that they will do what they have to do.

Also, Mr. Horvath told Cotroni that he asked him to go and see him and Mr. Cotroni said he would be at the Casa Loma the same day, 11:00 p.m. Mr. Horvath told Cotroni that at that time and at this place they would call Dasti in New York.

Q Now, let me direct your attention to the log of the conversation.

I believe you said that Horvath assured Mr. Cotroni they would do what they have to do?

A Yes, sir.

MR. IANNUZZI: May I object. Who is they?

MR. PUCCIO: That is what I was coming to.

Q I would ask you to look at the log and tell us if Horvath assured Cotroni they would do what they have to do

or assured Cotroni that someone will do what they have to do?

A He --

Q Who is he?

A Horvath says to Cotroni that they, we --

Q Will you look at the log, please, to see if that refreshes your recollection?

A Yes, sir. Tells him that Dasti called him and Horvath says Dasti finds it dangerous to do what they have to do. Horvath assures Cotroni that Dasti will do what he has to do.

THE COURT: Excuse me, are you quoting the exact words of the conversation?

THE WITNESS: I am not quoting, but I am saying what Mr. Horvath said.

THE COURT: You are paraphrasing it?

THE WITNESS: Yes, sir.

THE COURT: It is not the exact words?

THE WITNESS: Yes.

THE COURT: Do you know whether the word "dangerous" is used?

THE WITNESS: Yes, if I wrote it down, yes.

THE COURT: Do you recall it now as being the word used?

THE WITNESS: It is impossible.

THE COURT: You can't recall?

THE WITNESS: No.

THE COURT: Go ahead.

BY MR. PUCCIO:

Q But you did put the word "dangerous" in your log of that conversation?

A Yes. If I put it there, it is because he said it.

Q Well, how long after the conversation would you have written up this log?

A During the conversation.

Q You mean you listened to a tape recording of a conversation and you typed up a log?

A Yes.

Q In this log you used the word "dangerous", is that correct?

A Yes, sir.

Q You said that Horvath said that Dasti finds it dangerous to do what they have to do, is that right?

MR. IANNUZZI: Objection.

A Yes.

MR. IANNUZZI: If your Honor pleases, I think this is somewhat repetitious. Mr. Puccio has said the same thing three times. The testimony is in. He

said it and I suggest that is sufficient.

I am objecting to the constant repetition of the word "dangerous".

THE COURT: Overruled.

BY MR. PUCCIO:

Q Later on during the conversation, as you indicated, Horvath tells Cotroni that Dasti will do what he has to do, is that correct?

A Yes, sir.

Q Now, on that same day -- withdrawn.

Now, after this conversation, do you have a record of a call being placed to Mr. Cotroni's residence from Mr. Dasti, long distance?

A Yes.

Q Do you have a record of a long distance call placed to Mr. Cotroni's residence by Mr. Dasti?

A Yes.

Q Now, is there any conversation?

A At that time, yes, Mr. Dasti asked for Mr. Frank Cotroni and the maid -- her name is Mearl --

Q M-e-a-r-l?

A Yes.

Q What --

A She said that Mr. Cotroni was not there.

Q So there was a call placed by Mr. Dasti but there was no conversation between Mr. Dasti and Mr. Cotroni?

A Yes, sir.

Q When was this long distance,call placed by Mr. Dasti?

A Either on the 10th or on the 11th.

Q The tape that you took that from was a tape that ran from 2000 hours on the 10th to 2000 hours on the 11th?

A Yes.

THE COURT: What month and year?

THE WITNESS: January 10, 1971.

Q That would be January 10, 1971, to January 11, 1971?

A Yes, sir.

Q Because of the fact that no one was present at the time this tape recording was being made, you can't fix that call, the time of that call, from Mr. Dasti to Mr. Cotroni exactly, is that right?

A Yes, sir.

Q Now, subsequent to that, during the same time period between the 2000 hours on the 10th and 2000 hours on the 11th, is there a call made by Mr. Cotroni to his own residence?

A 2007

Couture-direct

A Yes, there was a call made by Mr. Cotroni to the same person, the maid Mearl, and Mr. Cotroni asks Mearl if he had received a long distance call and Mearl answered positively.

Q Now, I direct your attention to the time period from 2000 hours on the 11th -- by the way, what time is 2000 hours?

A Eight p.m.

Q I direct your attention to the time period starting 2000 hours on the 11th to 2000 hours on the 12th, during that time period, was an incoming call placed by Mr. Cotroni to his own residence intercepted?

A Yes, at that time he spoke again to Mearl and Frank asked if he had received a long distance call from New York and the maid told him no.

Q Now, let me direct your attention again to the same time period, that would be 8:00 p.m. -- between 8:00 p.m. on the 11th and 8:00 p.m. on the 12th of January, 1971.

During that time period, did you tape record a telephone conversation between Mr. Dasti and Mr. Cotroni?

A Yes, sir, I did.

It was an incoming call, long distance, Mr. Dasti to Mr. Cotroni at Mr. Cotroni's residence on telephone number (514) 256-7978.

A 2008
Couture-direct

Q That call was recorded between 8:00 a.m. on the 11th and 8:00 p.m.?

A Yes.

Q I'm sorry, withdrawn.

Can you give, set for us, the time within which that call was made?

A On a Tuesday, January 12, 1971, between 8:00 a.m. and 8:00 p.m.

Q You can set that call between 8:00 a.m. and 8:00 p.m. on Tuesday, January 12th?

A Yes, sir.

Q That was a call placed by Mr. Dasti to Mr. Cotroni?

A Yes, sir.

Q Is that contained in Government's Exhibit 3500-3, Government's Exhibit 39 in evidence, I should say?

A Yes, sir.

Q Is that conversation number ten?

A Yes.

Q Will you play that for us, please?

A Yes, sir.

THE COURT: Which conversation is that again?

MR. PUCCIO: Excuse me?

THE COURT: Which conversation is that?

A 2009
Couture-direct

MR. PUCCIO: Conversation number ten.

I ask that we test it first to see --

(At this time, a tape was played in open court.)

MR. PUCCIO: Your Honor, I think that all the earphones were working. We can play it again if necessary. I thought I would read the english translation to the jury.

THE COURT: All right.

MR. PUCCIO: This, again, is an incoming call placed by Mr. Dasti to Mr. Cotroni and I am reading from Government's Exhibit 39 in evidence, conversation ten.

"Cotroni: Hello?

"Operator: Hello? Hello?

"Cotroni: Yeah?

"Operator: Mr. Frank, long distance is calling.

"Cotroni: It's okay.

"Dasti: Hello.

"Cotroni: Hello.

"Dasti: How are you?

"Cotroni: Not bad, you?

"Dasti: Now I got you early in the morning,eh!

"Cotroni: Ah, that's perfect!

"Dasti: Yeah.

A 2010
Couture-direct

"Cotroni: Yeah.

"Dasti: The other one. You, did he know that he called me last night?

"Cotroni: Who, him?

"Dasti: Yeah, the pollock.

"Cotroni: Yes, he told me, yeah.

"Dasti: Ah, he told you. But what I told him; I can't speak on the telephone.

"Cotroni: Yeah, I understand, I understand.

"Dasti: You know, because the police are after me, (swear word).

"Cotroni: Yeah, hum!

"Dasti: Oh, yes.

"Cotroni: Oh, well.

"Dasti: That's because of the guy here, you know.

"Cotroni: Yes, yes.

"Dasti: Not the guys from here. They have nothing to do with you or the guys from here; that's me that.

"Cotroni: Yeah, yeah, yeah.

"Dasti: That's because I use to hang around with Giovann, you understand?

"Cotroni: Yes, yes.

"Dasti: Where he is imprisoned, Christ, they want to know other persons that I want to contact, you understand now?

"Cotroni: Yeah, yeah, yeah.

"Dasti: The thing is finished.

"Cotroni: Yes.

"Dasti: But what's gonna happen is that I'm, eh, but what's his name took money and he left, you know?

"Cotroni: Okay, then okay.

"Dasti: Yeah you know, then the, Wednesday I have to come back: I can't stay here.

"Cotroni: Yes.

"Dasti: But I think the guys, they'll bring it back to me over there, Wednesday. Well I'd rather have them bring it over, than to take a chance myself.

"Cotroni: It's the best thing, yeah.

"Dasti: You know in case they search me, you know!

"Cotroni: Yeah!

"Dasti: They would say, what the fuck, what's that money doing here, see?

"Cotroni: Yes, yes.

"Dasti: Yeah, the question is that, there

were those imbeciles from (incomprehensible).

"Cotroni: Yeah, yeah!

"Dasti: And it's five hundred dollars less, everyone, everyone is leaving because.

"Cotroni: Oaky, we'll talk about this when we'll see each other here.

"Dasti: Okay.

"Cotroni: Right, that how it will stay, it doesn't bother me.

"Dasti: You, when will I see you Wednesday?

"Cotroni: Well, as early as possible.

"Dasti: Well yes, Me, I'll arrive around two o'clock, two thirty.

"Cotroni: In the afternoon?

"Dasti: Yeah! It's the latest, at the latest, three o'clock, the others, they will be there waiting for me just the same.

"Cotroni: Yeah.

"Dasti: Do you understand now?

"Cotroni: All right you want us to meet at the same place as last time you know where I met you before with my young brother-in-law.

"Dasti: Yeah, at what time? At what time?

"Cotroni: You know my younger brother-in-law, Pierre, there!

"Dasti: Yeah.

"Cotroni: Good, around four.

"Dasti: Why yes, Around four, fourthirty.

"Cotroni: Yeah, because I have to be in that area, me.

"Dasti: Yeah, it's alright.

"Cotroni: You understand, I have errands to do there.

"Dasti: Where we went the other night?

"Cotroni: No, no, no, no. Not where we went to eat the other night!

"Dasti: No, no, no.

"Cotroni: Where we went the other time with my young brother-in-law before I left for there.

"Dasti: Ah, yes, yes, yes, yes, yes, it's alright that.

"Cotroni: You know what I mean?

"Dasti: Yes, yes, yes.

"Cotroni: Well after --

"Dasti: You were eating chicken?

"Cotroni: What?

"Dasti: You were eating chicken!

"Cotroni: Yeah, yeah, yeah.

"Dasti: Yeah, yeah, I understand.

A 2014
Couture-redirect

"Cotroni: Good, you remember?

"Dasti: Yes, yes.

"Cotroni: For approximately four thirty.

"Dasti: Okay!

"Cotroni: I'll wait for you there.

"Dasti: All right!

"Cotroni: Okay, be careful. Good day.

"Dasti: Okay.

(continued on next page)

REDIRECT EXAMINATION

BY MR. PUCCIO: (Cont.)

MR. PUCCIO: I would like to continue now.

Q Now, Mr. Couture, let me direct your attention now to Wednesday, January 13. On that day between the hours of 10:00 a.m. in the morning and 8:00 p.m. at night, was a tape recording made of a conversation between Mr. Dasti and Mrs. Dasti?

A Yes, sir, there was.

Q And was the call placed by Mr. Dasti to his wife at home?

A Yes, sir.

Q And is that call the conversation No. 11 in Government's Exhibit 39 in evidence?

A Yes.

MR. PUCCIO: Would you play that conversation for us, please.

THE WITNESS: Yes, sir.

(Tape played.)

BY MR. PUCCIO:

Q Now, Mr. Couture, I direct your attention to a telephone conversation between the hours of 8:00 p.m. on January 12 and 8:00 p.m. on January 13, 1971, during this time period was a tape recording made of a conversation between

Mr. Cotroni and Mr. Dasti?

A Yes, sir, there was on the 13th of January, 1971. Mr. Frank Cotroni made an incoming call to the residence of Mr. Dasti and Mr. Dasti said --

Q Frank Cotroni on the 13th made a call to the residence of Mr. Dasti and spoke to Mr. Dasti; is that right?

A Yes, sir.

Q Did you listen to a tape recording of this conversation?

A Yes, sir, I did.

Q Tell us as best as you can recall what Mr. Cotroni and what Mr. Dasti said during this conversation.

A Yes, sir.

Dasti said to Mr. Cotroni that he was just arriving off his trip and that the Americans will be in Montreal at 6:00 p.m. on the same day and then Cotroni said to Mr. Dasti that you will go and meet him at 2:00 p.m. at the Victory Sporting Club.

Q Now, did you say Americans will arrive or American will arrive?

A Americans.

Q Plural?

A Yes, sir.

Q Let me direct your attention to the Vegas 3 wiretap. That would be the wiretap on Mr. Dasti's residence; is that correct?

A Yes, sir.

Q Now, between 8:00 p.m. on January 13 and 8:00 p.m. on January 14th, was there a conversation intercepted between Mr. Dasti and his wife?

A Yes, sir, there was an incoming call coming from Mr. Dasti to MRs. Dasti.

Q Now, you listened to that conversation; is that correct?

A Yes, sir, I did.

Q This again is a conversation where the tape recording is no longer available?

A Yes, sir.

Q You in fact listened to the conversation when it was made?

A Yes.

Q Tell us as best as you can recall what Mr. Dasti says and what his wife says.

A Mr. Dasti says to Mrs. Dasti that the American -- that he received a phone call from the Americans and saying that they will be coming into Montreal by plane and Dasti says that he was expecing another phone call from them at

8:10 p.m onthe same date and Dasti also said that you are suppose to go and meet them at Dorval at the International Airport around 9:00 p.m. the same night and Dasti says they were bringing in the money.

Dasti also says that Cotroni was also waiting for the money. Dasti says that during that call he was at the Laurentian Hotel and he says if the Americans don't show up tonight they will come tomorrow morning.

Q Tomorrow morning being when?

A Thursday.

Q Now, I direct your attention to January 15, 1971, between the hours of 10:00 a.m. and 8:00 p.m..

A Yes, sir.

Q During this time was a tape recording made of a conversation between Mr. Cotroni and Mr. Dasti?

A Yes, sir, we intercepted a phone call from No. 514 - 677 0378.

Q Where is that located?

A Which was the pay phone of the Victoria Sporting Club and intercepted a longdistance call from Frank Cotroni to Frank Dasti.

Q Frank Co-roni is calling Mr. Dasti longdistance on January 15th?

A Yes, sir.

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Q You have the tape recording of that conversation?

A Yes, sir.

Q Is that No. 12 in Government's Exhibit 39?

A Yes, sir.

Q Would you play that conversation, please?

(Conversation played.)

MR. PUCCIO: Your Honor, may I read this conversation?

THE COURT: Yes.

MR. PUCCIO: This again is incoming call, long-distance call placed by Mr. Cotroni on January 15, 1971 sometime between the hours of 10:00 a.m. in the morning and 10:00 p.m. at night to Mr. Frank Dasti at the pay telephone or the Victoria Sporting Club.

(continued next page.)

(Transcription of tape follows)

"Palmieri: Hello.

"Operator: Is this 677-0378?

"Palmieri: Who?

"Operator: Is this 677-0378?

"Unknown male: Hello.

"Operator: Hold the line please. Hello.

"Cotroni: Hello.

"Operator: Is this 677-0378?

"Cotroni: 0378 yeah, 677.

"Operator: She's talking to the other party, go ahead.

"Cotroni: Hello. Hello.

"Palmieri: Hello.

"Cotroni: Frank.

"Palmieri: Frank.

"Cotroni: Yeah.

"Palmieri: Minute

"Dasti: Hello.

"Cotroni: Yes.

"Dasti: Yeah.

"Cotroni: Yeah, good day.

"Dasti: Not bad.

"Cotroni: What I wanted to say, I spoke with

him yesterday.

"Dasti: Yeah.

"Cotroni: He is not very very happy. You know the rent, it has to be respected. He says, he says he waited, hm, twenty four hours, you know for, hm, to get the okay.

"Dasti: He waited twenty four hours?

"Cotroni: Yeah, over there, he says he waited twenty four hours.

"Dasti: Well, he did not wait twenty four hours, he is sick, him.

"Cotroni: That's what he told me. He says from eight o'clock at night until five o'clock the next day.

"Dasti: So, what do you want him to do?

"Cotroni: I know. Anyway, I told him to leave it there. You know. Then, after that, I spoke to him about the other thing.

"Dasti: Yeah.

"Cotroni: Concerning the rent, you know?

"Dasti: Yeah.

"Cotroni: So that, myself, I told him I'd rather not, I rather, hx so he did not answer me.

"Dasti: Hum, hum.

"Cotroni: I don't know what to dc.

"Dasti: Yeah.

"Cotroni: To lower it, to lower it, I don't know.

"Dasti: Eh?

"Cotroni: (Incomprehensible) To lower it, I don't know, I did not tell him, me.

"Dasti: Yeah, yeah, I understand.

"Cotroni: I am meeting him later on, anyway.

"DAsti: Yeah?

"Cotroni: Hm, I'll call you back. Tomorrow, are you working?

"Dasti: Of course, I am here everyday.

"Cotroni: AT the same time there?

"Dasti: Yeah, yeah, everyday at eleven, eleven thirty, I'm here.

"Cotroni: Okay, I'll call you back tomorrow morning, at the same time.

"Dasti: Okay.

"Cotroni: Okay?

"Dasti: Listen there.

"Cotroni: The other one, the pimp, he doesn't wany any, him?

"Dasti: Hey?

"Cotroni: The pimp.

"Dasti: Yeah, he says, he'll take it. But I don't know, I'll talk to him anyway.

"Cotroni: Yeah, yeah, I would rather it happened. This way, we would get over with it, Christ.

"Dasti: Yeah, anyway they will call me over there today, anyway.

"Cotroni: Okay.

"Dasti: I'm supposed to speak to the little one tonight, you know?

"Cotroni: Yeah, yeah.

"Dasti: Because yesterday, I spoke to him from my house. You know?

"Cotroni: Ah yes, ah yes, I know.

"Dasti: So, hm, he says to me, Christ, you could have spoken to me about it, you could have spoken to me about it yourself, me, I did not know this, you were out of town, you know?

"Cotroni: Yeah, yeah, yeah.

"Dasti: I told him anyway, I told him anyway, it's no good anyway. I am working on the other thing, he says I'll see you tomorrow night, you know?

"Cotroni: Okay.

"Dasti: Do you understand now?

"Cotroni: Yes, yes.

"Dasti: Okay?

"Cotroni: At the same time, when I call you tomorrow morning.

"Dasti: Yeah.

"Cotroni: Let me know for the other thing, eh?

"Dasti: Okay.

"Cotroni: Goodbye.

"Dasti: Goodbye."

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q Now, on that same day Friday January 15, 1971, between the hours of 10:00 a.m. and 7:30 p.m., did you make a tape recording of a conversation between Mr. Oddo and Mr. Dasti?

A Yes, sir, we did.

Q Would that be a call placed by Mr. Oddo to Mr. Dasti at the Victoria Sporting Club?

A Yes, sir.

Q And this call took place sometime between 10:00 a.m. in the morning and 8:00 p.m. on the 15th at night?

A Yes.

Q That is Government Exhibit No. 39, Conversation

JM

13, is that right?

A Yes.

Q Would you play that conversation for us, please. Mr. Couture?

A Yes.

(Conversation played)

Q Now, let me direct your attention to Saturday January 16, 1971, which would be the next day. Now, on that date at 10:00 a.m. in the morning, was the tape recording made of a conversation between Mr. Oddo and Mr. Dasti?

A Yes, sir.

Q And was this a telephone call placed by Mr. Oddo to Mr. Dasti at one of the pay booths in the Laurentian Hotel?

A Yes, sir.

Q And that would be Conversation No. 14, in Government's Exhibit No. 39, is that correct?

A Yes.

Q Would you play that conversation for us, please?

A Yes.

(Conversation played)

(Continued on next page.)

fls.

REDIRECT EXAMINATION

BY MR. PUCCIO (Cont'd):

Q Now, Mr. Couture, on that same day, Saturday, January 16, 1971, between 10:00 a.m. and 8:00 p.m., was there a tape recording made of telephone conversation between, again, Mr. Oddo and Mr. Dasti?

A Yes, sir.

Q And was this a call placed by Mr. Oddo to Mr. Dasti at the Victoria Sporting Club?

A Yes, on 514-677-9272, this was the Victoria Sprting Club business phone.

Q And is that conversation No. 15 of Government's Exhibit 39?

A Yes, sir.

Q Will you play that conversation, please?

A Yes, sir.

(The following is a transacription of Conversation No. 15.)

"DASTI: Hello!

"ODDO: Hello, Frank.

"DASTI: Yeah, boy.

"ODDO: Look ey, Frank?

"DASTI: Yeah.

"ODDO: Eh, could I talk?

"DASTI: Yeah, yeah. listen eh you don't have to talk eh whatever you told me it's all right.

"ODDO: Whatever I told you is all right?

"DASTI: Yeah, leave it go at that for this time.

"ODDO: All right, so look eh, we'll be up there what, what do you want, well look I eh it's gonna take ma little time.

"DASTI: Yeah.

"ODDO: It's gonna take me a little time. When we get there we'll call you, it'll be tonight or in the morning.

"DASTI: It'll be tonight or in the morning.

"ODDO: Right?

"DASTI: You sure?

"ODDO: Definitely. Where should I call you?

"DASTI: Well, tonight or tomorrow morning. What time in the morning would you think?

"ODDO: Well, it'll be early, nine, ten.

"DASTI: Nine, ten?

"ODDO: Yea!

"DASTI: Well, call me at the house.

"ODDO: At the (incomprehensible).

"DASTI: Or, if it's gonna be tomorrow morning.

3

"ODDO: Yeah, we'll make it tomorrow. Even if we get in there tonight, I won't call you til tomorrow morning.

"DASTI: If, if you come in tonight you know what time you would come in?

"ODDO: No, I got no idea, cause I got, you know, I gotta go and get to see these people and get that, you know.

"DASTI: Yea, all right, so.

"ODDO: See, I can't tell you a definite time, you know?

"DASTI: Yeah. All right, look, cause I was gonna leave myself, yo know?

"ODDO: Yeah.

"DASTI: If you definitely gonna be here today or tomorrow so I ain't gonna leave.

"ODDO: O.K. Good.

"DASTI: Because I gotta go back an pick up what I told you you know?

"ODDO: Back here?

"DASTI: I left eh, some money up there.

"ODDO: Oh, I didn't know.

"DASTI: Friend of mine made a bet for me, you know.

"ODDO: Yeah, but eh couldn't I, I couldn't do that because.

"DASTI: No, no. No, no, it's no use, I don't wanna mix everything up.

"ODDO: All, all right Frankie.

"DASTI: They made a bet for me at eh, at Yonkers the other night, you know, I gave him a couple of horses.

"ODDO: Oh, oh, I see.

"DASTI: So, I gotta little money.

"ODDO: Yeah, yeah, you bet.

"DASTI: I don't want, so I wanna go and pick it up, you know.

"ODDO: Yeah, yeah, yeah. So then I'll call, I'll call you in the morning.

"DASTI: All right, call me, you got the phone home?

"ODDO: Yeah.

"DASTI: Eh that's the eh, that number you only call when you need very very.

"ODDO: That I know.

"DASTI: You understand?

"ODDO: That I know.

"DASTI: O.K.

"ODDO: O.K.

"DASTI: So.

"ODDO: So long.

"DASTI: I'll eh, see you tomorrow morning.

"ODDO: Yeah, good.

"DASTI: Right, bye bye."

MR. PUCCIO: Your Honor, on this next conversation, I believe you wanted to have a discussion.

THE COURT: Oh, yes. The Jury is excused for a few minutes.

(Jury excused.)

THE COURT: Before you do that, I will ask you to come up at the bench, but I have gone over the papers in Government's Exhibit 43.

Don't come up to the bench, because I want these sealed before I have counsel come up. But, I don't think that you are required to introduce all the conversations, even though they may be incriminating.

You may very well have to introduce those conversations that may be used that might show criminal intent or lack of criminal intent, state of mind.

I see two conversations that fit in those two categories, one, and this one I can talk about because it's between the defendant Dasti and his wife.

This summary says Dasti tells her that the American answer will bring him money on Sunday morning.

He adds that he will then go to New York to go pick up his money personally the following week.

That sounds very much like the conversation.

MR. PUCCIO: Is there a bracket around that, your Honor?

THE COURT: Oh, no.

MR. PUCCIO: What happened was, the entire page was given to me by Mr. Patenaude, that the conversations that the Quebec police force wanted omitted a period on. I gave the page to the translator and she translated the whole page.

There are conversations there that we have already handed over and we may use. It is just the material in brackets.

THE COURT: Oh, just the material in brackets.

All right. Now, the material in brackets, there was some material in brackets, if the report of a conversation with Mr. Cotroni might very well be used by the defendant -- now I can't find it.

Oh, here it is. Now, I don't know whether I am disclosing anything if I mention the word Cola.

MR. PUCCIO: That's Nick D'Iorio, that's a friend of Dasti's.

THE COURT: All right.

Now, this is a telephone call between Cola and Dasti. Cola speaks of a guy in parenthesis, possibly Frank Catroni, apparently the name was sort of veiled, or disguised, whom he met with before he left on a trip, and then in parenthesis, Acapulco.

This guy, in parenthesis, Frank Catroni, would not have been pleased with something supposedly done by Frank Dasti, "Re: Possibly a narcotics transaction between Dasti and the American Oddo, and Vanacora Re: Transaction which took place on 1/10/71 in New York (cocaine)."

Now, the rest of it is irrelevant.

Now, of course, the defendants might use this to try to show that Mr. Dasti didn't want any part of the --

MR. IANUZZI: Cotroni.

THE COURT: I'm sorry, Cotroni?

MR. PUCCIO: I am pretty sure that was turned over, your Honor.

Is that in brackets?

THE COURT: It's in brackets. The point isn't clear. I don't know that I would permit the testimony

to come in. He doesn't say that he didn't want the cocaine deal, but this is Cola, telling Dasti --

MR. PUCCIO: Telling Cotroni.

THE COURT: No, telling Dasti that Cotroni wasn't happy about something that happened, it could have been the payment, it could have been the deal, it could have been a lot of things.

I think the defendant ought to know it is there and if they want to use it, let me know how they want to use it. If it's admissible, I will allow you to use it. That's the only piece that I find that they might be entitled to.

I read all the rest and after you -- you can show me that you have already given it to him, of course, and we don't have a problem. This is the part I read, "Perhaps Mr. Couture could tell us whether we got it already.

You see it's within the bracket, but there are a lot of conversations. All right.

Now, after that the clerk is to seal it, return it to the U. S. attorney and the U. S. attorney is to hold it for possible review by the Court of Appeals.

Now, on the other matter --

MR. PUCCIO: You're right, your Honor, this was

not turned over because of other material in the conversation.

THE COURT: Yes.

MR. IANNUZZI: May I suggest that this is one of the reasons why we have all along asked somehow for the Court to review all of the tapes because there may be much such information.

THE COURT: I say I don't even know it's even admissible. Of course, I should listen to all, but you know you are talking about 1,000 tapes in French.

MR. IANNUZZI: I understand, but we are talking about thousands of days in jail, too.

THE COURT: That's not the argument.

MR. IANNUZZI: It's something we might be able to use.

THE COURT: I say a thousand, so a thousand days in jail, it could be more than that, you know.

MR. IANNUZZI: It sure could, your Honor. I just indicate that this is an example of possible material.

THE COURT: You have made your argument on the record. You have said so many times that the Judge should go to Montreal and listen to a translator trnaslate 1,000 to 2,000 tapes.

MR. IANNUZZI: I didn't say that's the only method of doing it. I said somehow we should have the information.

THE COURT: If these defendants are convicted and you convince the Court of Appeals I should do that, then I will go up there and take two months off, you see, and do it.

But in this busy Court, to go up on a fool's errand, I don't see any reason for it.

MR. IANNUZZI: I don't know that it is a fool's errand.

(Continued on next page.)

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THE COURT: The Court of Appeals would have to convince me that it is not.

MR. IANNUZZI: We would be willing to spend the time.

THE COURT: I am talking about you, I am talking about myself.

MR. IANNUZZI: The defense counsel would spend the time.

THE COURT: Do you think the Canadian Government is going to tell you what is going on? I saw some of the stuff in the sealed envelope and there is enought in there for the Canadian Government to say: Nothing doing.

MR. IANNUZZI: They did on other occasions that they made a choice --

THE COURT: All right.

You know where to make your argument, over at Foley Square on the 17th floor.

MR. IANNUZZI:. Yes, sir.

THE COURT: Now, why should that be in, what page is it on?

MR. IANNUZZI: May we discuss this out of the hearing of the press?

THE COURT: Yes. Come up here.

(The following occurred out of the hearing of the spectators.)

MR. PUCCIO: I might eliminate it entirely, maybe I can just say "incomprehensible."

MR. IANNUZZI: The jury has the books.

THE COURT: I will tell them we put that out because it wasn't agreed that it was a translations. There was a disagreement and because we didn't agree we blocked it out.

Mr. Clerk, you have some of those felt pens that do a pretty good job -- you say it is on the second page of the transcript?

MR.PUCCIO: Converstion 10, second page, in line 17, line 18, 20, 21, etcetera -- no, it is just up to 21.

THE COURT: Up to 21?

MR. PUCCIO: Actually we could probably -- Mr. Clerk, do you have that blue pencil that we use?

See if that works.

THE COURT: The French "bordel" would sound close to bordello. Maybe it should be X'd out in French, too.

MR. IANNUZZI: May I ask only that we not go

into this with the press here?

THE COURT: All right.

Would you skip the listening of the tape and just read a transcript of -- we will wait for Mr. Iannuzzi to see if he agrees.

(Pause.)

THE COURT: Would you skip the playing of the tape, although it is in French, I thought that they will catch it.

MR. IANNUZZI: I think that will be all right.

THE COURT: Would you have any objection to --

MR.IANNUZZI: Since the actual tape doesn't go into the record anyway, but merely the translation--

THE COURT: If you -- just a moment.

Would you have any objection to eliminating the playing of the tape?

MR. IANNUZZI: Not I, your Honor.

THE COURT: I am talking to Mr. Puccio.

MR. PUCCIO: The only thing occurs to me is why the jury -- the jury would be wondering why we didn't play this tape.

THE COURT: Tell them it is not a perfect tape and we have agreed on close examination --

MR. PUCCIO: This is an important tape.

THE COURT: It is in French.

MR. PUCCIO: There is nothing wrong with the recording. It is an accurate transcript of what is in the tape. This is not an unclear tape at all.

THE COURT: I think if you play it the jury is not going to understand French, it is French-Canadian.

MR. IANNUZZI: Why don't we start from line 22, and just bypass that part.

THE COURT: How about that?

All right, take all the -- suppose you take all the books -- how about cutting out page 13 to 22 -- I'm sorry, line 13 -- 17 to 21, inclusive. Let's do a scissor job on it. There doesn't seem to be anything in there that is pertinent.

MR. IANNUZZI: It would be faster withthe scissor.

MR. PUCCIO: I think if you cut out, in line 15 Cotroni says, "It is 1:30 --"

THE COURT: I said leave that in and start at line 17. Just one point -- "There is where I came in late."

MR. PUCCIO: I don't think -- well, I think we should take the whole thing out.

MR.PUCCIO: 17, 18, 19 and 20.

THE COURT: All right, suppose we do this, and it would look like this, would you have any objection to it?

MR. PUCCIO: I would just like to put a piece of paper behind it because it makes it confusing. The books were put together about a week ago and we asked that all objections be made a long time before that.

MR. IANNUZZI: We made this several days ago.

MR. PUCCIO: We -- well, it was done after the date that it was supposed to. Also if you took out --

THE COURT: I think if we asked them not to read this now, take the books away for this, put a staple in it now and then we will do the surgical job later.

MR. PUCCIO: This is an important conversation as far as we are concerned.

THE COURT: I say --

MR. PUCCIO: I'd rather have the jury,-with a couple of agents we can fix these books in five or ten minutes.

THE COURT: All right. Get some scissors.

MR. PUCCIO: Just to preserve the continuity,

is your Honor leaving 22 in?

THE COURT: Yes.

MR. PUCCIO: Really in line 15, catroni says, "It is 1:30," and line 22 the answer is "Yes," and then Dasti says "Yes, I have to know what to do."

THE COURT: Yes, you are right.

MR. PUCCIO: So that would mean we eliminate 16 to line 22 inclusive.

THE COURT: 16.

You want that "yeah" in, don't you?

MR. PUCCIO: I would suggest, line 16 to 21, then.

MR. IANNUZZI: Leaving 16 in?

THE COURT: Leave 16 in and take 22 out.

MR. PUCCIO: No, leave 22 in. I just wanted to read that --

MR. IANNUZZI: You can take these both out.

MR. PUCCIO: I thought of that, too.

THE COURT: All right, collect the books and let's do the job.

MR. IANNUZZI: May we just agree amongst ourselves that we will not permit discussion with the press about anything concerning this?

MR. PUCCIO: Nobody is going to discuss this with the press.

MR. IANNUZZI: I understand that but they come up to us and talk to us.

THE COURT: You know that the transcript is available to the press. If they buy it, they have it.

MR. PUCCIO: I think they have a copy of this already and they know all about it and it is not very earth-shattering.

THE COURT: All right, start with the cutting.

MR. PUCCIO: I think if we put a piece of paper on,it is faster.

MR. IANNUZZI: How aout the blacking out of it?

THE COURT: No, you can read through the type. You can read through it.

MR. PUCCIO: We are going to take out line 17 to 21, your Honor.

THE COURT: All right.

Suppose you oversee it and turn to the page and Martin will start cutting and let the lawyers look at it and when you are ready, let me know.

Suppose you look at this and make sure.

MR. PUCCIO: All right.

(Recess taken.)

THE COURT: Are we ready now?

MR. PUCCIO: Yes, your Honor.

THE COURT: Are we going to skip those tapes -- or that spot on the tape when we play the tape?

It is in french and I don't know how they can pick it up.

MR. IANNUZZI: The press might pick it up.

THE COURT: I am not so concerned -- I can't worry about these things. If it can be blurred out, all right.

THE WITNESS: I can fix it.

THE COURT: You can?

THE WITNESS: It's already done.

THE COURT: Oh.

THE WITNESS: Yes. On the tape.

THE COURT: Wonderful.

Bring the jury in.

(The jury is in the jury box.)

THE COURT: You may proceed, Mr. Puccio.

BY MR. PUCCIO:

Q Now, again, let me refer you to Saturday, January 16, 1971, again between the hours of 10:00 a.m. in the morning and 8:00 p.m. at night.

On that day, was a tape recording made of a

conversation between Mr. Dasti and Mr. Cotroni?

A Yes. There was an outgoing long distance call. Mr. Dasti to Mr. Frank Cotroni. And this call was intercepted from the Victoria Sporting Club, number (514) 677-9272.

Q Mr. Dasti was calling from the Victoria Sporting Club, placing a call to Mr. Cotroni?

A Yes.

Q Was this a long distance call?

A Yes, to Acapulco.

Q That is conversation number sixteen in the Government's Exhibit 39, is that correct?

A Yes.

Q Would you play that conversation for us, please?

A Yes, sir.

(Tape played at this time in open court.)

MR. PUCCIO: May I read this conversation, your Honor?

THE COURT: Yes.

MR. PUCCIO: Thank you. This, again, is a call placed by Mr. Dasti from the Victoria Sporting Club to Mr. Cotroni in Acapulco.

"Operator: Just a moment; go ahead now!

"Dasti: Hello!

"Cotroni: Hello!

"Dasti: Yes!

"Cotroni: Me, I don't live here anymore, I told you so.

"Dasti: Eh!

"Cotroni: I don't live here anymore.

"Dasti: Yeah, I know. They gave another number.

"Cotroni: Ah yes, I live at the other place.

"Dasti: Ah yea, but I wanted you to call me because, hm.

"Cotroni: But, I was going to call you at noon.

"Dasti: At noon!

"Cotroni: Ah yes.

"Dasti: We are at about noon: It is one-thirty.

"Cotroni: It is one-thirty?

"Dasti: Yeah.

"Cotroni: Well, I went to the Huerta (name of brothel in spanish) this is why I came in late.

"Dasti: Ah! Ah!

"Cotroni: The brothel, the Huerta, that's what they call it.

"Dasti: Yeah, I know, you went to the brothel.

"Cotroni: Yeah.

"Dasti: Yeah, hm, me, I have to know what to do, hm.

A 2046
Couture-redirect

"Cotroni: I don't know.

"Dasti: The guys are in a jam over there, and he doesn't he doesn't want to have anything to do with it.

"Cotroni: Yeah, yeah.

"Dasti: Because what happens, is that, it takes two to make one.

"Cotroni: What?

"Dasti: It takes two to make one.

"Cotroni: Ah, ah; two to make one.

"Dasti: Ah yes, it takes, the guy wants on, only the contract to be hm, like hm.

"Cotroni: Yeah, I understand.

"Dasti: I have to sign the contract for seven thousand per month, per, per year.

"Cotroni: Yeah, yeah, yeah.

"Dasti: It will make, I have, I have to sign a contract for two years.

"Cotroni: Yeah, it makes ten thousand.

"Dasti: That is fourteen.

"Cotroni: Yeah, yeah, fourteen.

"Dasti: You understand now?

"Cotroni: Yes, yes.

"Dasti: Otherwise, I can't do anything and,

and the others, he wants, they will cancel their contracts. They they, they are going to burn it.

"Cotroni: (Incomprehensible) the contract?

"Dasti: Eh?

"Cotroni: It is seven thousand per year.

"Dasti: Yeah.

"Cotroni: So for two years, it makes fourteen thousand.

"Dasti: That's it! Because it takes absolutely that, for hm, to fix the thing.

"Cotroni: Yeah, yeah, I understand.

"Dasti: You understand now? Because he is too much hm, it is too much, it is too finished; the buy does not want to do anything with it; besides that, he does not want to lose his time and hm, you know how it is; they are nervous.

"Cotroni: Me, I don't know what to say me to him, because it doesn't matter to me.

"Dasti: Ah!

"Cotroni: Me, I have but to give it to him, but it is because maybe after, he won't want anymore.

"Dasti: Now listen, me I can't take any chances with these guys. I don't want to burn them.

"Cotroni: Yeah, yeah, I understand.

"Dasti: Besides, hm, they are in a jam. I can't, keep them, by the, by the throat, eh?

"Cotroni: No.

"Dasti: Listen, they are not liars these guys.

"Cotroni: What do you think you?

"Dasti: Hm, they are not liars. This is all I got to say. I'll see, I'll see what he can do about it. He is suppose to call me at one-thirty, this is why I wanted an answer.

"Cotroni: Yeah, yeah, yeah. I don't know what the hell to do.

"Dasti: Ah, but me, hm, there is only one solution, it is to leave.

"Cotroni: You don't understand what I'm saying now.

"Dasti: Yeah.

"Cotroni: (Incomprehensible) to do business.

"Dasti: Yeah, I ...

"Cotroni: (Incomprehensible) what does he want with me?

"Dasti: Well yes, but what do you want me to say, to, to throw them away.

"Cotroni: Because (incomprehensible) for, for, it works.

"Dasti: I understand! I understand! The other one told me yesterday, that the man wants me next week.

"Cotroni: Yeah, yeah, yeah.

"Dasti: You understand now?

"Cotroni: Yeah, yeah, I understand, yeah.

"Dasti: But everything is fixed. I told him it was shit, you know.

"Cotroni: Yeah.

"Dasti: He said anyway, you should have told me and (incomprehensible) but I have to leave right away; I can't wait until you return (swear word). I explained the thing, you know!

"Cotroni: Hey!

"Dasti: Yeah.

"Cotroni: Do what you have to do.

"Dasti: Hm. Hm. Correct (ok).

"Cotroni: OK?

"Dasti: OK!

"Cotroni: Fix it your way. You, when will you be back?

"Dasti: I'll be here.

"Cotroni: Eh?

"Dasti: I'll be here.

"Cotroni: Ah, you are not going away (out of town)?

"Dasti: No, no.

"Cotroni: Ah, ah, ah!

"Dasti: If I'm going away, I will have to leave, hm, tomorrow morning, tomorrow night, to-night.

"Cotroni: Yeah you are not leaving for long?

"Dasti: No, no, one day.

"Cotroni: Okay!

"Dasti: But, I will go there and get the thing, you understand?

"Cotroni: Yeah, you want to call me back, or do you want me to call you?

"Dasti: No no, I'll call you, I have your number there.

"Cotroni: If you call me there?

"Dasti: Yeah!

"Cotroni: Call me there at the other number.

"Dasti: Yeah, they gave it to me!

"Cotroni: 21166.

"Dasti: Yeah.

"Cotroni: Call me either in the morning at ten o'clock at 10:00 o'clock from Montreal.

"Dasti: Yeah.

"Cotroni: Eh, or at 8:00 o'clock at night.

"Dasti: Okay!

"Cotroni: From Montreal!

"Dasti: All right!

"Cotroni: OK? Because I'm always there, at that hour.

"Dasti: Okay!

"Cotroni: Goodbye.

"Dasti: Goodbye."

Q Now, Mr. Couture, let me direct your attention to the time period beginning approximately 8:00 p.m. on January 16th until 8:00 p.m. January 17, 1971.

During that time period, did you tape record a conversation between Mr. Dasti and his wife?

A Yes, we did.

Q Was that an outgoing call made by Mr. Dasti from the Victoria Sporting Club to his wife?

A Yes.

Q You listened to this conversation and made an entry in your log, is that correct?

A Yes.

Q This, again, is a conversation where the actual tape is no longer in existence?

A Yes.

Q But you do have your log?

A Yes.

Q Tell us, as best you can recall, what Mr. Dasti said to his wife and what she said to him during this conversation?

A He said to Mrs. Dasti that the American will be bringing to him the money on Sunday morning. And then Dasti says he will then go to New York to pick up his personal money next week.

Q Now, during that same time period, was a tape recording made of a conversation between Mr. Paul Oddo and Dasti?

A Yes, sir, there was.

Q Was that a call received by Mr. Dasti at his residence?

A Yes, sir.

Q The call was then placed by Mr. Oddo to Dasti?

A Yes.

Q This, again, is a call where you don't have a recording, but you do have a log entry or summary of the conversation, is that correct?

A Yes.

Q Tell us, as best you can recall, and refer to your log entry if you have to, what Mr. Oddo said and what

Mr. Dasti said during this conversation?

A Oddo says to Mr. Dasti he was at the hotel and waiting for him. And Mr. Dasti says to Mr. Oddo that he was to go meet him at the hotel at approximately 9:45 in the morning on January 17, 1971.

Q That would be a Sunday, is that correct?

A Yes.

MR. PUCCIO: May I have a minute, your Honor?

(Pause.)

Q Now, let me direct your attention to the time period beginning at 8:00 p.m. That would be 2000 hours, is that correct?

A Yes.

Q On January 19, and 1800 on January 20th, 1971, during that time period, was a tape recording made of a conversation between Mr. Orsini and Mr. Dasti?

A Yes. We intercepted this call on the pay phone of the Victoria Sporting Club.

Q You listened to the tape recording of this conversation, is that correct?

A Yes.

Q This, again, is not a conversation which you have at the present time?

A Yes, sir.

A 2054
Couture-redirect

Q But, you did make a log, or a summary, of this conversation?

A Yes, sir.

Q Tell us, as best you can recall, and refer to the summary if you have to, what Orsini said to Mr. Dasti and what Mr. Dasti said to Orsini during this conversation.

A At that time, Mr. Orsini reached Mr. Dasti and gave him Frank Cotroni's number in Acapulco, 42069, and told Mr. Dasti to call Mr. Cotroni right away in Acapulco.

Q Then on Wednesday, January 20th, between 10:00 a.m. in the morning and 8:00 p.m. at night, you intercepted a call between Mr. Dasti and Mr. Cotroni, is that correct?

A Yes, sir.

Q That was a long distance call placed by Mr. Dasti from the Victoria Sporting Club to Mr. Cotroni in Mexico, is that right?

A Yes.

Q That would be conversation seventeen in Government's Exhibit 39? Is that correct?

A Yes.

Q Will you play that conversation for us, please?

A Yes.

(At this time, the tape was played in open court

MR. PUCCIO: May I read this conversation, your Honor?

THE COURT: Yes.

MR. PUCCIO: This again is a call placed by Mr. Dasti on January 20, 1971 between 10:00 a.m. in the morning and 8:00 p.m. at night from the Victoria Sporting Club to Mr. Cotroni in Acapulco and I am skipping the preliminaries with the operator and I will go to line 26 where Cotroni says "Good day."

"Dasti: Hello!

"Operator 1: Eh, I have a collect call for Mr. Frank, on behalf of Mr. Frank, is it?

"Cotroni: Yes, it's okay.

"Operator 1: Thank you.

"Cotroni: Good day.

"Dasti: Good day!

"Cotroni: Yeah, I can't get your line!

"Dasti: No.

"Cotroni: Well, it's rough when we try to call.

"Dasti: Ah, ah.

"Cotroni: Anyway, I am meeting the guy tomorrow you know?

"Dasti: Yeah.

"Cotroni: I did not know what to tell him!

"Dasti: You are meeting the guy?

"Cotroni: (Incomprehensible)

"Dasti: You are meeting the guy tomorrow?

"Cotroni: Yeah, I'm meeting the guy, my guy, here!

"Dasti: Yeah, for?

"Cotroni: Well for nothing, I just want to meet him, hm, I'll talk to him about the lease.

"Dasti: Yeah, the lease is finished!

"Cotroni: Eh?

"Dasti: The lease is finished.

"Cotroni: Yeah.

"Dasti: Well.

"Cotroni: He made it yeah.

"Dasti: Well yes, I have to, what do you want me to do. I can't do otherwise. I had told you, if I didn't call you.

"Cotroni: Yeah, hm. I understand, yes it's ok.

"Dasti: Do you understand?

"Cotroni: But hm, did you receive the thing? Yes.

"Dasti: Ah yes!

"Cotroni: Ah, you have it on hand!

"Dasti: Ah yes.

"Cotroni: I will call you back, I will tell you what to do.

"Dasti: All is put away.

"Cotroni: Yeah yeah, it's ok. I'm going to see him tomorrow, I'll see what he wants.

"Dasti: Yeah.

"Cotroni: And, hm, if he wants it, I will call you, and we will have it sent (incomprehensible).

"Dasti: Good, as you wish.

"Cotroni: What?

"Dasti: As you like.

"Cotroni: Ah, I will call you back.

"Dasti: Ask him what he wants to do with the other things.

"Cotroni: Yeah okay. But for that, I'll speak to him about it at the same time.

"Dasti: Yeah, because they are waiting after it.

"Cotroni: They are waiting for it eh?

"Dasti: Yeah.

"Cotroni: OK. Anytime eh?

"Dasti: Yeah, anytime but, you know what you have to do eh?

"Cotroni: Yeah.

"Dasti: You must sign a contract, and pay the amount you wish, you know, because otherwise, that is, that is not.

"Controni: A contract for?

"Dasti: A contract, you know.

"Cotroni: Yeah yeah.

"Dasti: You know, look at the contract he wants, you know.

"Cotroni: Yeah, yeah, I understand.

"Dasti: He has to build, and it will cost him, it will cost him five, it will cost him six, it will cost him seven, you know.

"Cotroni: Yeah, I understand.

"Dasti: We must have the contract for, hm, like this, otherwise, it is no good.

"Cotroni: Okay.

"Dasti: You understand now?

"Cotroni: It's okay.

"Dasti: This me, I'll take care of the rest, me.

"Cotroni: Okay.

"Dasti: Okay?

"Cotroni: Correct!

"Dasti: All right.

"Cotroni: Good day.

"Dasti: Good day.

"Cotroni: Hey.

"Dasti: Yeah.

"Cotroni: Call back the..., you know, the one that just called you.

"Dasti: Yeah.

"Cotroni: You have the number, you have the number eh, on St. Lawrence there.

"Dasti: I had it, but I, I forgot it.

"Cotroni: Do you want to write it down? Have you a pencil?

"Dasti: Yeah.

"Cotroni: 272-

"Dasti: 272, yeah...

"Cotroni: 2142.

"Dasti: Yeah.

"Cotroni: If it is busy, it is 272.

"Dasti: Yeah.

"Cotroni: Eh, 1, 1623.

"Dasti: Yeah.

"Cotroni: Now tell him, because he is supposed to join me on Friday.

"Dasti: Yeah.

"Cotroni: Here.

"Dasti: Yeah.

"Cotroni: Ask him, if he can come tomorrow instead.

"Dasti: Yeah.

"Cotroni: It's, it's more convenient for me.

"Dasti: Okay!

"Cotroni: Tell him just that. Okay?

"Dasti: All right! Okay.

"Cotroni: Goodbye.

"Dasti: Goodbye!"

BY MR. PUCCIO:

Q Now, let me direct your attention, Mr. Couture, to the time period beginning 2000 hours or 8:00 p.m. on January 20th until 2000 or 8:00 p.m. on January 21, 1971.

During that time period, was a conversation intercepted and recorded between Mr. Frank Cotroni and Mr. Carlino?

A Yes, there was.

Q Was that a call placed by Mr. Cotroni to Mr. -- to the Victoria Sporting Club?

A Yes, on the pay phone.

Q This again is a conversation that you haven't retained, but you have a log or a summary of this conversation: is that right?

A Correct, sir.

Q Now, tell us -- you yourself listened indeed to this tape recording?

A Correct.

Q Tell us as best as you can recall and if necessary refer to your log what Mr. Cotroni said to Mr. Carlino and what Mr. Carlino said to Mr. Controni on the phone during this conversation.

A Cotroni was saying to Carlino to advise Frank Dasti that you would have to give the money to Guido Orsini and then another guy came on the phone. It was Paul Desormiers He was also in Mexico with Mr. Cotroni and he talked with Arthur Laverdure and Mr. Desormiers gave a phone number to Laverdure and said to him, "You will reach Willie at such number."

Q Now, during this same time period, that would be the 20th to the 21st, did you intercept and record a telephone conversation between Mr. Carlino and Mr. Dasti?

A Which date do you say?

Q The same time period, between 2000 hours on January 21th to 2000 hours on January 21st.

A Yes.

Q This was a call between Mr. Carlino and Mr. Dasti; is that right?

A 2062
Couture-redirect

A Yes.

Q This was a call that Mr. Carlino placed from the Victoria Sporting Club; is that correct?

A Correct.

Q To Mr. Dasti?

A Correct.

Q Is that correct?

A Right, sir.

Q Again this is not a conversation where you have the tape available, but you did listen to it and you did make a summary of this conversation; is that right?

A Yes.

Q Tell us as best as you can recall what Mr. Carlino said to Mr. Dasti and what Mr. Dasti said to Mr. Carlino during this conversation.

A Mr. Carlino said that he received a phone call from Mr. Cotroni and Mr. Cotroni told him that Mr. Dasti should give the money to Guido Orsini.

Q Now, again during that same time period, that would be between 2000 hours on the 20th and 2000 hours on the 21st, which would be 8:00 P.M. on the 20th and 8:00 P.M. on the 21st, did you intercept a phone conversation between Mr. Guido Orsini and Mr. Frank Cotroni?

A Yes, we did.

A 2063
Couture-redirect

Q Was this a long-distance call?

A It was a long-distance call to Acapulco, which phone number was 21166.

Q That is a call that Mr. Orsini was placing to -- from his home in Montreal to Mr. Cotroni in Acapulco?

A Yes.

Q This is not a conversation that you have available for Court, but it is one that you listened to and made a log of; is that correct?

A Yes.

Q Tell us as best as you can recall, what Mr. Orsini said to Mr. Cotroni and what Mr. Cotroni said to Mr. Orsini and if you feel it necessary to refer to the log, refer to the log.

A Mr. Cotroni said that Mr. Orsini -- that he should arrive in Mexico next Friday and then Orsini said thatthe plane leaves around 6:00 a.m. or 6:00 p.m. Cotroni tells him that he will go and meet him at Mexico City. Also Cotroni says to Orsini he will contact Frank Dasti and tell him to give him the money and Orsini will bring him -- the money of the New York transaction.

Cotroni says that he must have this money before Friday and Cotroni tells him not to contact Pino --

Q Pino Catania?

A 2064

Couture-redirect

A Pino Catania and Cotroni tells Orsini you will call him tomorrow, Thursday, 11:00 P.M. and noon -- and midnight.

Q During this conversation, did Orsini say that he will bring the money from the New York transaction to Mr. Cotroni in Acapulco?

A No sir, he just tells him he was bringing him the money to Acapulco -- to Frank Cotroni.

Q Now, during that same time period, that is between 8:00 P.M. on the 20th and 8:00 P.M. on the 21st, did you intercept and record a conversation between Mr. Frank Dasti and Mr. Orsini?

A Yes, we did.

Mr. Dasti was calling from his residence and he made a phone call to the Pizzeria Dante on St. Lawrence Street in Montreal.

Q This again is not a conversation that you have a tape recording for in Court; is that correct?

A Correct.

Q Or available for us in Court here today?

A Correct.

Q But it is a conversation that was recorded and you listened to it at the time, right?

A Right, sir.

Q Tell us as best as you can recall what Dasti says to Mr. Orsini and what Mr. Orsini says to Mr. Dasti during this conversation.

A Dasti asked Orsini what time he was leaving and Orsini answered him that he was leaving by CPA -- Canadian Pacific Airlines -- at 5:30 P.M. on the 22nd of January 1971.

Dasti says to Orsini that he will give him $14,000 to give back to Frank Cotroni and Dasti also mentioned that that money is in small bills and Orsini and Dasti will meet -- Orsini and Dasti will meet at the corner of Peel and St. Catherine on the 22nd of January, 1971, that day, in front of the drugstore.

Q Again, during the same time period from 8:00 P.M. on the 21st until 8:00 P.M. on the 22nd, did you intercept a telephone call or a telephone conversation between Mr. Frank Cotroni and Mr. Guido Orsini?

A Yes, sir.

Q And was that a telephone call placed by Mr. Cotroni to Mr. Orsini at Mr. Orsini's residence?

A Yes, it was a long-distance call from Acapulco.

Q This again is not a conversation that you have a tape recording available for?

A Correct, sir.

A 2066

Couture-redirect

Q But it is one that you listened to and made notes on or a summary of; is that correct?

A Correct, sir.

Q Tell us as best as you can recall, what Mr. Cotroni said to Mr. Orsini and what Mr. Orsini said to Mr. Cotroni during this conversation.

A Orsini tells Cotroni that he will be leaving for Acapulco around 5:00 P.M. on the 22nd of January, 1971, and will be arriving Mexico at 9:15 P.M.

Orsini tells Cotroni that you'll have to recover the money tomorrow morning around 10:00 a.m. Orsini asked Cotroni what he would say if he was to be searched by the Customs in Durzal Airport.

Cotroni answers they will ask him absolutely nothing.

Orsini tells Cotroni that he will be in Acapulco until Monday and Cotroni answers that it is possible that he may call him back tomorrow around 2:00 P.M. at Corcolo.

MR. PUCCIO: Your Honor, at this point I'd ask Mr. Couture to step down. I would like to call another witness. If there is any cross-examination, I guess that could take place before.

THE COURT: I did not hear that?

MR. PUCCIO: I suppose if there is any cross-examination it could take place before the next witness.

THE COURT: I assume there is cross-examination.

MR. IANNUZZI: If this is a short witness and we will have Mr. Couture again, perhaps I can hold my cross-examination and have it at one time.

MR. PUCCIO: It doesn't matter to me.

THE COURT: You said as a short witness?

MR. PUCCIO: There are two witnesses, actually.

THE COURT: All right, you have no objection to that?

MR. IANNUZZI: No.

THE COURT: Nor you, Mr. Klar?

MR. KLAR: No.

THE COURT: You may step down.

MR. IANNUZZI: Since we are going to have Mr. Couture again anyway, your Honor.

MR. PUCCIO: Mr. Kevin Gallagher.

K E V I N G A L L A G H E R , having been first duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: State your full name, please.

THE WITNESS: Kevin Gallagher, G-a-l-l-a-g-h-e-r.

A 2068

Gallagher-direct

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Gallagher, by whom are you employed?

A United States Department of Justice, Drug Enforcement Administration.

Q How long have you been so employed by the Drug Enforcement Administration or any of its predecessor agencies?

A Nine and a half years.

Q Where is your present office or assignment?

A Paris, France.

Q Prior to your assignment in Paris, France, Mr. Gallagher, you were assigned -- were you not -- to the Drug Enforcement Administration office in Montreal?

A Correct.

Q What was your position?

A Agent in charge of the office.

Q During what period of time were you agent in charge of the Montreal office of DEA or predecessor agencies?

A September 1970 to September of 1972.

Q Now, I would like to direct your attention to the morning of January 22nd, 1971.

On that morning, Mr. Gallagher, did you have occasion to participate in a surveillance in Montreal?

A Yes, I did.

Q Where did you begin?

A The actual surveillance commenced in the vicinity of Peel and St. Catherine Streets in Montreal.

Q Is there anything located there in Montreal?

A Yes, there is a Burke drugstore on one corner.

Q Were you joined in this surveillance by any other United States agents or any members of the Royal Canadian Mounted Police?

A Yes, by both.

Q Tell us who was with you.

A Sergeant Sauve and Constable Bieres of the Royal Mounted Police, Special Agent Swanson of the then Bureau of Narcotics and Dangerous Drugs, and United States Customs Agent Tom Fitzpatrick.

Q Approximately when did you and the others arrive in the vicinity of Burke's Drugstore that morning?

A Approximately 9:45.

Q Did there come a time when you entered Burke's Drugstore?

A Yes, at approximately 9:55.

Q And when you entered Burke's Drugstore, did you have anything with you in your hand?

A Yes, I had an attache case which contained a

camera where you could take pictures utilizing the attache case without having to open it.

Q There was a device or button on the attache case which permitted you to take pictures without disclosing the camera; is that right?

A Correct. It was located in the handle.

Q The button?

A Correct, it was like a trigger.

Q The trigger was located in the handle of the attache case?

A Correct.

Q Tell us as best as you can recall, Mr. Gallagher, what you heard and what you observed on that morning.

A At approximately 9:45 I observed Frank Dasti, who was just exiting a newspaper store located on Peel Street on the opposite side of St. Catherine Street from Burke's Drugstore where his car was parked. He crossed St. Catherine and entered the Burke Drugstore by the Peel Street entrance.

Q Where were you when you made these observations?

A Standing on St. Catherine.

Q Continue.

A I entered the restaurant -- Burke's Drugstore has a restaurant -- through the other door located on

A 2071
Gallagher-direct

St. Catherine. I observed Mr. Dasti having a cup of coffee towards the rear of the drugstore where the restaurant was located.

At approximately 10:00 P.M. I observed Guido Orsini and another male enter the premises. They spoke for a few minutes and Frank Dasti left the drugstore.

(Continued next page)

A 2072

Gallagher-direct

Q Who had the conversation?

A Frank Dasti and Guido Orsini. The other individual did not take part in the conversation.

Mr. Dasti left the drugstore and returned ten or fifteen minutes later carrying a brown paper wrapped object, which could have been a bag or an object wrapped in brown paper. He gave it to Orsini and when he did he said, "I had to get it from the box" and Orsini said, "No problem. I am going to leave for Mexico this afternoon.

Following this, there was another short conversation and a woman at the counter said -- mentioned she was going to New York and Dasti mentioned that he planned going there shortly himself.

Right after that, all three parties left by the Peel Street entrance.

Q And you made no further observations of Mr. Orsini or Dasti on that day?

A No, I did not.

Q While the conversation and meeting were taking place between Mr. Orsini and Mr. Dasti, did you activate the camera in the attache case?

A Yes, I did, several times.

Q You took pictures?

A Yes, I did.

A 2073
Gallagher-direct

MR. PUCCIO: May I have these marked, please?

THE COURT: They may be marked.

Mark them all with the same number.

MR. PUCCIO: They're eight photos.

THE COURT: If they are specifically referred to, mark those specifically referred to.

THE CLERK: Eight photographs marked Government's Exhibit 44 for identification.

BY MR. PUCCIO:

Q Mr. Gallagher, I show you eight photographs marked as Government's Exhibit 44 for identification.

Will you look at them, please?

(Exhibit handed to witness.)

A Yes, sir.

Q Now, you recognize the scenes depicted in those photographs?

A Yes, it is Burke's Drugstore.

Q Do you recognize the people in these photographs?

A Yes, I do.

Q Who are the people?

A Guido Orsini, Frank Dasti --

THE COURT: We will now have to mark them.

Q Are these the photographs that you took during your surveillance that morning?

A 2074

Gallagher-direct

A That's correct.

Q And they were taken with this camera that you have indicated was concealed in the attache case?

A Correct.

Q Do these photos fairly and accurately depict what was happening in that drugstore on that morning?

A Yes, they do.

MR. PUCCIO: I offer those photographs into evidence, your Honor.

THE CLERK: Eight photographs marked 44A through 44H, inclusive, for identification.

THE COURT: Show them to counsel.

(Shown to counsel.)

THE COURT: I expect to go a little later today -- a little later than usual. Tomorrow I will make it up to you and suspend approximately at 4:30.

Would it be a hardship if I asked you to come in earlier tomorrow, like at 9:30 -- I mean, start the trial at 9:30? Do you think you all can make it?

All right, let it be marked.

THE CLERK: Government's Exhibits 44A through 44H, previously marked for identification, now marked in evidence.

(So marked.)

BY MR. PUCCIO:

Q Mr. Gallagher, let me show you the photographs, 44A through H, and will you go through them please and refer to the exhibit number identifying the parties in each photograph and give us a description of what was -- of what has taken place in each photograph?

A 44B -- Exhibit 44B depicts Frank Dasti --

Q Maybe you could put them in the order in which you took them. It might be easier that way.

MR. IANNUZZI: Do these pictures not speak for themselves, now that they are in evidence?

THE COURT: Well, pictures can be described.

A Exhibit 44H shows Guido Orsini, Frank Dasti and the other gentleman who had entered with Orsini. I believe when I took this it was just prior to Mr. Dasti exiting Burke's Drugstore, right after the arrival of Orsini and the other gentleman.

MR. PUCCIO: May I circulate this one, your Honor?

Q Next?

A 44B was taken just as Dasti returned to Burke's Drugstore carrying the paper bag, which I referred to earlier.

Q The next photograph, please?

A 44C shows Dasti, Orsini and what appears to be

A 2076
Gallagher-direct

some sort of handyman or postman possibly that had just entered.

44D is the exact same photo, except I moved the attache case and in this instance it caught the package between Dasti and Orsini with Dasti's hand still on it.

44F depicts Orsini in the back of Dasti and the package laying on the counter between Dasti and Orsini.

44E depicts the package with a hand on it, still on the counter, with a side view of Orsini.

Photograph 44G shows Orsini and the male who had entered with him. Orsini accepting the package.

Exhibit 44A is just a photo of the male that had entered with Orsini.

MR. PUCCIO: Could you read that back, please?

(Answer read.)

MR. PUCCIO: No further questions for Mr. Gallagher.

THE COURT: Mr. Iannuzzi?

MR. IANNUZZI: Thank you.

(continued on next page)

CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Gallagher, did you file a report with your agency concerning the surveillance?

A Yes, sir, I did.

Q Do you have a copy of that report?

A I believe MR. Puccio does.

MR. PUCCIO: I have it.

THE COURT: Will you mark it, please.

THE CLERK: One-page document marked Government Exhibit 3500-9 for identification.

(So marked.)

BY MR. IANNUZZI:

Q Now, Mr. Gallagher, did not your surveillance actually initiate at Dasti's residence and you followed to the drug store?

A No, sir, as I recall, there was surveillance that morning at Frank Dasti's residence but to the best of my recollection that was conducted by the RCMP Surveillance Squad.

I personally became involved in he surveillance I had gone to Agent Sauve's office, met with the other agents involved and walked to Berke's DRug store.

Q Was that as a result of -- at least in the

surveillance subsequent to listening to various tape recordings?

A Yes, sir.

I don't believe in that case I had listened to any tapes so Sgt. Sauve told me there would be a meeting at the drug store.

Q In any event you were aware of and knew the contents of various tape recordings prior to making the surveillance?

A Yes, sir, I was.

Q Very well. Of course, you did not see Mr. Cotroni at any time at any of these meetings?

A No, sir, I did not.

Q And did you previously make a surveillance in this case?

A Excuse me, I didn't hear the end of your question.

Q Had you previously made a surveillance of a week or ten days before the 22nd?

A Yes, sir.

Q That was at the Pescatore's Restaurant?

A That's correct, on Stanley Street.

Q At that time, did you see Mr. Dasti and Mr. Cotroni and Mr. Catania having a drink or dining or something?

A Yes, sir, I did.

Q And where was it that they were located in that place when you saw them?

A They were on the second story of the residence.

Q In other words, it was up?

A That's correct.

Q Is that where the bar was?

A Yes, sir, I believe there was a bar, if I recall there was a bar on the left as you go in. I am not positive now.

Q Was the place almost completely full at that time?

A No, sir, it was not. As I recall there might have been several other people scattered around the room.

Q The place was empty?

A I certainly wouldn't call it full.

Q Would you call it almost full or would you call it almost empty?

A I would put it closer to empty, yes, sir.

Q And after having made those observations a week or ten days before, did you contact your office in New York relative to the fact that Mr. Dasti was going to go to New York?

A Yes, sir, I did.

Q And did you advise them to put a 24-hour surveillance on him?

A Yes, sir, I did that also.

Q Did you in any fashion advise them that Mr. Catania was going to New York?

A No, I don't recall that I did.

Q Did you advise the office in New York on what plane Mr. Catania was leaving?

A Not that I can recall. No, sir.

Q Did you advise New York to put any kind of surveillance on Mr. Catania?

A Not that I recall. As I recall I told them to concentrate on Mr. Dasti.

Q In other words, Dasti,as opposed to Catania, was the important one you wanted them to concentrate on?

A That's correct.

Q As a matter of fact, not only was he the important one but you didn't even mention Catania?

A I am sure I must have mentioned his presence in Canada.

Q As far as his surveillance or presence in New York?

A Not that I can recall, nos, sir.

MR. IANNUZZI: I have no further questions.

THE COURT: Mr. Klar.

MR. KLAR: Just a couple of questions, your Honor.

CROSS-EXAMINATION

BY MR. KLAR:

Q Mr. Gallagher, do you recall what time you arrived at the Pescatore Restaurant at the prior surveillance?

A Approximately 7:00 or 7:15.

Q Did you arrive alone or with someone else?

A No, sir, I was in the company of Constable Sauve, Sgt. Sauve, and Constable Bieres of the RCMP.

Q Did you enter the restaurant immediately?

A Within five minutes or so of arrival, yes, sir.

Q Did you observe Mr. Dasti enter the Pescatore Restaurant?

A No, sir.

Q Did you observe Mr. Cotroni enter the restaurant?

A No, sir.

Q Did you observe Mr. Catania enter the restaurant?

A No, sir.

Q At some point you go into the restaurant?

A With Constable Sauve around 7:00 or 7:15.

Q When you entered the restaurant did you say you thought there was a bar on the left?

A As I recall you went up the second story, to the best I can recall there was a bar on the left-hand side.

Q Were you able to see Mr. Dasti, Mr. Cotroni, Mr. Catania from the entrance level of the restaurant prior to walking up?

A No, sir.

Q When you went upstairs, did you know if these individuals were eating or drinking?

A I believe they were drinking. I don't recall. I didn't stay that long, it was very quick.

Q Approximately how long did you stay?

A A minute, perhaps a little less. LOng enough to look and leave.

Q Did you sit down at all?

A No, sir, I did not.

Q Now, on the occasion of the 22nd of January, the surveillance at the first pharmacy, did you at any time see the contents of the bag that you referred to?

A Did I what?

Q Did you at any time see the contents of this package?

A No, sir, I did not.

Q It was never opened in front of you?

A No, sir.

Q How far were you from Mr. Dasti and Mr. Orsini at the time you were taking these various pictures?

A Well, the counter is a type of hollow rectangular where the center is empty for the waitress to move around in. They were on one side and I was on the other side.

Q And there were several stools separating it?

A No, not really stools. It would be a hollow square. I was on one side and they were on the other side of the counter with the waitress inbetween them.

THE COURT: The shape of a "U" or horseshoe?

THE WITNESS: Yes, sir.

Q You didn't see where Mr. Dasti went?

A No, sir, I didn't follow him.

MR. KLAR: That's all.

MR. PUCCIO: I have several questions on redirect.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q You indicated on cross-examination that you also made an observation of Mr. Catania and Mr. Dasti and Mrs. Cotroni at the Pescatore Restaurant on January 8; is that correct?

A That's correct, early in the evening.

Q And did you know, Mr. Gallagher, or were you

advised where Mr. Catania was traveling to after this meeting or on the subsequent day?

A No, sir, I don't recall. I don't have any knowledge of where he was going afterwards.

Q Now, with respect to Mr. Dasti, did you have any knowledge as to where he was going after the meeting of the Pescatore?

A Yes, sir, I did. I obtained information that he was travelling to New York City.

MR .PUCCIO: That's all I have.

RECROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Gallagher, in reference to the surveillance at the Pescatore Restaurant, is it not a fact that you already indicated on a prior occasion that in fact there was only one group there at the time, when you were making your observation?

A Yes, sir, that's correct.

Was that one group, Mr. C troni and Mr. Dasti and Mr. Catania, or was it one group in addition?

A No, no, that is the group I was referring to, when I say a group, I mean three or more people.

Q So, basically they were the only people there?

A No, there were other people scattered around the

room. When I said a group, I meant three or more people.

Q That was the only group and there were a few other people in the place?

A That's correct.

Q Basically, it was empty?

A That's correct.

Q All right.

Now, you indicate that you knew Mr Dasti was going to New York; is that correct?

A That's correct.

Q And that would be, I assume as a result of listening to various tapes or having read various logs or having them translated?

A Yes, sir, I believe on that occasion I read a transcript. I don't recall whether I listened to a tape.

Q And you knew Mr. Dasti was going to New York?

A That's correct.

Q And was it the subject of your interest because it was a possible transaction relative to narcotics?

A Yes, sir, it was.

Q And was that a transaction relative to narcotics possibly in New York?

A Yes, sir, it was.

Q Was that a transaction of narcotics possibly

concerning a Mr. Vanacora and Mr. Oddo?

A Yes, sir, it was.

(continued next page.)

BY MR. IANNUZZI:

Q Now, by the way, did you have any -- or, did you overhear any conversations of Mr. Cotroni concerning narcotics?

A No, sir, not that I can recall.

Q And this entire transaction to take place in New York, according to your testimony, was between Mr. Dasti and some Americans in New York?

A That is correct.

Q And although you did not listen to any tapes, you were aware of Mr. Cotroni before you observed him in that restaurant?

A Yes, sir, I certainly was.

Q And you were aware of the fact that he was in New Mexico?

A Yes, sir, I was.

Q Did you have any one ascertain where Mr. Cotroni was staying at the time?

A I believe I had been told by the RCMP where he was staying. I think it was the Holiday Inn, but I am not positive.

Q So you basically knew he was staying at the Holiday Inn in Montreal?

A Yes.

A 2088
Gallagher-recross

Q In connection with this transaction in New York, did you have anybody follow Catania to the airport to find out what plane he got on?

A No.

Q Did you determine that that was not significant in the context of your investigation?

A In the contents of the investigation, the way it was shaping up then, I felt Dasti was the key to what we needed.

Q And Catania was not?

A At that point, no.

Q And you acted thereupon?

A Yes.

Q And this is in light of the fact that you had listened to many tapes from the middle of December up to and including the date of this surveillance which was the 8th of January, about a month later?

A Yes, sir, that is correct.

Q And in addition to not having Catania's transportation checked out, you didn't have Catania surveilled in New York, either?

A No, sir.

Q And you did not check with Customs with reference to Catania and his whereabouts and where he was

going or anything else?

A Not at that time, no.

Q And I would assume that that is on the basis of the context of the investigation as it existed at that time?

You did not feel it was essential to follow it up?

A That is correct.

MR. IANNUZZI: I have no further questions, your Honor.

MR. KLAR: I have one or two questions, your Honor.

RECROSS EXAMINATION

BY MR. KLAR:

Q Mr. Gallagher, did you have occasion to overhear any conversation between Mr. Dasti and any of the other participants that evening at the Pescatore Restaurant?

A No.

Q Did you recommend in any report surveillance of Paul Oddo?

A I am not sure about in reports, but I certainly recommended surveillance.

Q Of Paul Oddo?

A Yes.

Q And Mr. Vanacor?

A Yes.

Q Were those recommendations contained in a report you made?

A I know I recommended them telephonically because we were having a lot of telephone contact at that point, but I am not sure about reports.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q When you indicated that Mr. Dasti was the key to the whole thing, what did you mean?

A I meant to affect the seizure here in New York. We felt by sticking as close to Dasti as we could was the best chance we had to physically seize the merchandise.

Q Will you explain why that was your opinion at that time?

MR. IANNUZZI: I object.

THE COURT: Sustained.

MR. PUCCIO: That is all.

THE COURT: Anything further?

(continued on next page)

A 2091

Gallagher/re-recross

RE-RECROSS EXAMINATION

BY MR. IANNUZZI:

Q Did you say that you felt it was of significance, or the utmost significance at the time you made the decision,to watch Mr. Dasti toward the end of seizing narcotics?

A That is correct.

Q Would it also have been your opinion that that would be as to a transaction that might go on, in other words, not only narcotics, but perhaps money?

A I am afraid I don't follow you.

Q You say in order to affect a seizure, now a seizure I assume is a seizure of narcotics?

A Yes.

Q It was your opinion to watch Dasti and that would be the best way to make a seizure of narcotics?

A That is correct.

Q I would assume also that that would be toward the end of seizing any money that might change hands, concerning the narcotics transaction?

A Possibly, if it was present at the same time that the narcotics was seized, certainly.

Q In all of this, no mention was made to your directors in New York whether an alleged transaction was to

take place, to watch Mr. Catania?

A No, sir.

MR. IANNUZZI: That is all.

RE-RECROSS EXAMINATION

BY MR. KLAR:

Q Mr. Gallagher, you indicated that by following Mr. Dasti you would be able to make a seizure in New York.

Is that what you said?

A That is correct.

Q It was your feeling then that Mr. Dasti did not have any narcotics on him at the time?

A That is correct.

Q At this meeting of January 22nd?

A That is correct.

Q If you thought that he did have narcotics on him at that time, you would have made an arrest; isn't that correct?

A In Canada?

Q In Canada.

A I would have suggested that to the Royal Canadian Mounted Police, to make an arrest.

Q And the Royal Canadian Mounted Police was with you at the time?

A Yes.

A 2093

Gallagher/re-recross

Q If the Royal Canadian Mounted Police felt as you did that Mr. Dasti was in possession of narcotics in Canada, they would have made an arrest, wouldn't they?

MR. PUCCIO: I object.

THE COURT: Sustained.

MR. KLAR: I have nothing further.

MR. PUCCIO: That is all of this witness, your Honor.

THE COURT: You may step down, Mr. Gallagher.

P A U L S A U V E , called as a witness, having first been duly sworn by the Clerk of the Court, took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Sauve, by whom are you employed?

A I am employed by the Royal Canadian Mounted Police.

Q And for how long have you been so employed?

A For twenty-one and a half years.

Q Do you have any specific assignment within the Royal Canadian Mounted Police?

Are you assigned to any particular squad?

A I am in charge of the international heroin group.

Q And for how long a period of time have you been

A 2094

Sauve-direct

in charge of the international heroin group?

A Since 1968.

Q Now, I would like to direct your attention to January 22, 1971.

On that date, did you conduct a surveillance with Mr. Gallagher of the Bureau of Narcotics and Dangerous Drugs and members of the Royal Canadian Mounted Police?

A Yes, sir, I did, with Agent Gallagher and Corporal Beers of the Royal Canadian Mounted Police.

Q Approximately what time of day did you begin your surveillance?

A We left our office at approximately 9:30 that morning.

Q Where did you go?

A We proceeded to the Berke's Pharmacy, to the intersection of Peel and St. Catherine Street.

Q Tell us what took place after you arrived at the vicinity of Berke's Drugstore?

A When I arrived there, Mr. Dasti's car was parked on Peel Street facing south, right in front of the international newsstand.

I took a position in the United Cigar store located directly across from the Berke's Pharmacy and I saw Mr. Dasti come out of the drugstore at approximately

five after ten in the morning and walk to a bank which is located on the west side of the Berke's Pharmacy.

Q Do you know the name of the bank?

A The Bank of Nova Scotia.

Q Continue, please.

A When Mr. Dasti left the Berke's Pharmacy, he was not carrying anything in his hand.

He walked into the Bank of Nova Scotia at 10:05 and he walked out of the bank at 10:15.

He was carrying a parcel. I would describe it like being twelve by eight by four, wrapped in brown paper.

Q What did he do after he left the bank with the parcel?

A He walked back into the Berke's Pharmacy.

Q Did there come a time when you saw Mr. Dasti leave Berke's Drugstore?

A Yes, I saw him leave there with Mr. Orsini and Mr. Dipilla at approximately 10:25 through the side door of the Berke's Pharmacy, the door that is on Peel Street.

Q Was Mr. Dasti carrying anything at this time?

A No, Mr. Orsini was carrying a parcel.

Q Let me show you some photographs marked Government's Exhibits 44A through 44H -- well, let me show you first Government's Exhibit 44B.

That is a photograph of Mr. Dasti, is it not?

A Yes.

Q You see Mr. Dasti in the courtroom today, don't you?

A Of course I see him.

Q Would you indicate Mr. Dasti, please?

A He is the third man from the left with the blue suit.

THE COURT: Let the record show that the witness pointed out the defendant, Frank Dasti.

I think we will suspend for lunch at this time. The case will resume at two o'clock.

(Luncheon recess taken.)

(continued on next page)

A 2097

AFTERNOON SESSION

(The jury is in the jury box.)

PAUL SAUVE, called as a witness, having been previously duly sworn by the Clerk of the Court, resumed the witness stand and testified further as follows:

MR. PUCCIO: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. PUCCIO (continued):

Q Mr. Sauve, when we adjourned for lunch I believe you were examining certain photographs that were received in evidence, Government's Exhibits 44A through H.

Let me show you Government's Exhibit 44B. I think you indicated that is a photograph of Mr. Frank Dasti?

A That is correct.

Q And do you recognize the package that he is carrying?

A The same package he walked out of the bank with and walked into the pharmacy with.

Q On January 22nd?

A Yes.

Q You indicated during your testimony that there was a third individual present with Mr. Orsini and Mr. Dasti at the drugstore on January 22nd?

A Yes, there was.

Q Do you know his name?

A Pasquale DePella.

Q That is Exhibit 44A (indicating), is that correct?

A Yes, that is him.

Q That is a photograph of the third individual?

A Yes.

Q Pasquale DePella?

A Yes.

MR. PUCCIO: I have no other questions of Mr. Sauve.

THE COURT: Mr. Iannuzzi?

CROSS-EXAMINATION

BY MR. IANNUZZI:

Q Mr. Sauve, at the time that you made your observation, of course, you did not observe Mr. Cotroni at or near that place?

A No, I did not, sir.

Q And did you, sir, make a previous surveillance in this case about a week or ten days before in a restaurant?

A I was present, yes.

Q Did you make an observation within the restaurant or not?

A No.

Q Very well, sir.

MR. IANNUZZI: I have no further questions.

THE COURT: Mr. Klar?

MR. KLAR: I have no questions.

THE COURT: Anything further, Mr. Puccio?

MR. PUCCIO: Yes.

REDIRECT EXAMINATION

BY MR. PUCCIO:

Q The restaurant that you are referring to is the Pescatore Restaurant?

A Yes.

Q Did you in fact go into a restaurant on January 8th?

A I was outside the restaurant, I never went in.

MR. PUCCIO: I have a few further questions, your Honor.

THE COURT: All right.

MR. PUCCIO: Your Honor, I would like to reserve those for a few minutes and recall Mr. Couture and examine Mr. Couture and then recall Mr. Sauve.

MR. IANNUZZI: Inasmuch as he played all the tapes, I assume when Mr. Couture takes the stand next, we would have cross-examination?

A 2100

Sauve-redirect

THE COURT: What is the purpose of bringing this witness back again?

MR. PUCCIO: It's on a different matter.

THE COURT: Let's have it now.

MR. PUCCIO: All right.

BY MR. PUCCIO:

Q Now, I would like to direct your attention, Mr. Sauve, to October 6, 1970.

On October 6, 1970, did you have occasion to conduct a surveillance in Montreal?

A Yes, I did, sir.

MR. IANNUZZI: I believe this is outside the scope of the indictment.

THE COURT: October 6th, 1970?

MR. PUCCIO: I ask your Honor to take it subject to connection.

THE COURT: I must hear it first, I don't know whether it is outside or not.

There are many theories upon which evidence can come in. It is on or about December 1, 1970. The indictment charges on or about December 1, 1970.

MR. PUCCIO: Approximately December 1, that is correct.

THE COURT: Go ahead.

A 2101
Sauve-redirect

BY MR. PUCCIO:

Q Now, with reference to this surveillance that you conducted on October 6, 1970, were you alone on the surveillance, accompanied by other law enforcement people, whether they be with the United States Bureau of Narcotics or the RCMP?

A I was with Agent Gallagher, Constable Beers, Constable LaGimodiere.

Q Anybody else, do you recall?

A We had the surveillance unit on duty.

Q That would be the surveillance unit of the RCMP?

A Special surveillance unit.

Q Approximately what time of day on October 6,1970 did you begin your surveillance?

A Approximately 9:30 in the morning.

Q Would you tell us now the location that you were surveilling?

A That was Oscar's Motel and Restaurant, which is located on Taschereau Boulevard, which is located in Longueuil, Quebec.

Q Is that Oscar's Motel in the vicinity of the Victoria Sporting Club?

A Pretty close to the Victoria Sporting Club, across the street from there.

Q And would you tell us, please, where you were in relation to the Oscar Motel?

A I was in the immediate vicinity of the Oscar Motel. I was on foot at times and at times in the police car.

Q Tell us, as best you can recall, what you observed from your vantage point, Mr. Sauve?

A I saw Mr. Dasti walking into the Oscar Restaurant-Motel where he was joined by Mr. Anthony Vanacore. Paul Oddo was inside the restaurant. And I dispatched Mr. Gallagher and Mr. LaGimodiere to go into the restaurant to see what was going on.

And I seen during that time -- while the meeting was in progress -- Corporal Beers and I decided to go next door to a coffee shop to get a cup of coffee.

While sitting there, a fellow walked into the restaurant and sat in the booth next to us and started talking to the waitress asking for directions as to how to get back to New York.

MR. IANNUZZI: Objection, hearsay.

Q A fellow walked into the restaurant?

A Yes, and he was sitting in the booth next to us in the restaurant approximately ten minutes. He walked out and walked over to the motel where he joined the party. He walked inside the Oscar Motel-Restaurant.

Q Who did he join with?

A I didn't go inside the restaurant.

Q What is the name of this other individual?

A I believe it is James Altamura.

Q Would it be Vincent James Altamura?

A Yes.

THE COURT: How do you spell the last name?

THE WITNESS: A-l-t-a-m-u-r-a.

BY MR. PUCCIO:

Q Did you continue your surveillance at this point?

A Shortly after, all came out of the restaurant, Mr. Dasti left, and the other three, Oddo, Vanacore and Altamura, went to their car which was a Thunderbird, gray Thunderbird, with New York license 1034QG.

Q Did they leave at this point?

A We rushed back to the car because I was on foot. We rushed back to the car on the side street of the Oscar Motel.

Q You saw Mr. Dasti go to his car and Mr. Altamura, Mr. Vanacore, and Mr. Oddo?

A Go to their car that was parked behind the Oscar Motel-Restaurant by the unit in the back.

Q By the --

A 2104
Sauve-redirect

A Motel unit.

MR. PUCCIO: I have no further questions.

THE COURT: Mr. Iannuzzi?

MR. IANNUZZI: I would move, if your Honor pleases, to strike that testimony as being totally irrelevant.

THE COURT: The jury may be excused.

(The jury left the courtroom.)

THE COURT: Is this offered to show the relationship between Vanacore, Oddo, and Dasti?

MR. PUCCIO: Well --

THE COURT: That they knew each other?

MR. PUCCIO: I think that has been established, your Honor. It is offered to show the relationship between -- show that Dasti, Oddo, Vanacore and Altamura all knew each other.

THE COURT: Who is Vincent Altamura?

MR. PUCCIO: Your Honor, I ask it be taken subject to connection. I will make an offer of proof on this point. We have this meeting on October 6,1970 between the four individuals, Altamura, Oddo, Vanacore and Dasti. We have telephone conversations between Vanacore, Oddo, and Dasti, a reference to another party who is unidentified in the conversation.

I don't have the transcript in front of me, but there are references. That the other party is here --

THE COURT: I remember that.

MR. PUCCIO: Now, we have testimony which we plan to introduce through an individual named George Stewart. Mr. Stewart was in the narcotics business with Mr. Cordvano and Mr. Bynum.

THE COURT: Of United States Bynum fame?

MR. PUCCIO: Yes.

Mr. Stewart, in January, has a conversation with Mr. Cordvano and Mr. Altamura where Mr. Altamura indicates there will be some cocaine to be delivered and that the cocaine will be coming from people in Canada.

On January 10 -- this is a conversation, by the way, that Mr. Stewart has with Mr. Altamura and Mr. Cordvano at Pagano's Restaurant, I believe, on Lexington Avenue in New York City.

THE COURT: Is that the connecting --

MR. PUCCIO: No. On January 10, 1971, in the late afternoon, Mr. Stewart receives a call from Mr. Cordvano indicating that he should go to Bynum's residence in Brooklyn and bring a machine with him which is used to seal narcotics.

This is, by the way, January 10th, the date of the delivery of nine kilos of cocaine in this case.

Mr. Stewart goes to Mr. Bynum's residence and receives a call later on on the 10th, late in the evening on the 10th, telling him to be at Mr. Bynum's residence. This is from Mr. Cordvano. During the early morning hours of the 11th, one o'clock in the morning, Mr. Cordvano arrived at Mr. Bynum's residence with five kilograms of cocaine and he indicates to Mr. Bynum and Mr. Stewart that Altamura had just received nine kilos and these are five of the nine kilos.

Mr. Stewart indicates -- observes the kilos and indicates that the kilos are brownish in color and sticky.

I believe half a kilo was taken from the five and cut into one kilogram and Mr. Stewart and Mr. Cordvano left the half-kilo,which was converted into one, with Mr. Bynam and some other people and they took the other four and a half kilos to a location Mr. Stewart had.

I would point out Mr. Stewart has previously been arrested and was working as a confidential informant for the Bureau of Narcotics and he extracted

a sample of this cocaine and gave it to Agent Moser, who gave it to a chemist who analyzed it.

We would ask to introduce Mr. Stewart's testimony, Mr. Moser's testimony, and the chemist's testimony.

Later, Mr. Stewart extracts another sample, gives it to Mr. Moser and he gives it to the chemist who analyzes it.

An important link is that on January 14, I should say a conversation is intercepted between the 13th and 14th, this has already been testified to, and this is on Vegas Three between 8:00 on the 13th and 8:00 on the 14th, Dasti is speaking to his wife and says he received a call from the Americans and they will be coming by plane. And Mr. Dasti expects another phone call about bringing the money. Mr. Dasti says Cotroni is waiting for the money. He said the American did not show up and will come tomorrow. We have records from the hotel showing on January 14,1971, Mr. Altamura checked in to the hotel.

THE COURT: The purpose is to show Oddo and Vanacore and Dasti knew Altamura?

MR. PUCCIO: That is to show the four of them knew each other.

THE COURT: Of course it's admissible. If somebody saw Mr. Altamura in a playpen with the three others, it would be admissible.

MR. IANNUZZI: May I suggest Mr. Altamura is not in the case?

MR. PUCCIO: He is named in the bill of particulars.

MR. IANNUZZI: Again, I am objecting and saying the bill of particulars cannot supply co-conspirators.

THE COURT: I understand the argument. Even if he wasn't named, the fact they knew each other is within the issues of this case in the light of the connecting proof that Mr. Puccio represents will be offered.

(continued on next page)

(The following took place outside the presence of the jury.)

MR. IANNUZZI: May I suggest on October 6th, there is no possibility of the conspiracy being in existence because it didn't come allegedly into existence until the 18th of December --

THE COURT: Mr. Iannuzzi, I say there are more than one reasons for permitting testimony to come in, even before the time a conspiracy started.

MR. IANNUZZI: Yes, sir.

THE COURT: I am not sure on or about December 1 does not include October. But even if it doesn't, a relationship existed before the conspiracy started indicates the possibility or probability that they were in the business, knew each other, and it is admissible. Preparations to go into the conspiracy are admissible.

MR. IANNUZZI: I understand. But the difficulty with it is I do not represent Mr. Dasti and we don't have Mr. Cotroni in this entire picture and it is very prejudicial that Mr. Dasti did know these people and as you say made preparations for a conspiracy with them. A conspiracy that has nothing to do with us.

THE COURT: The Government can prove that

Altamura knew these people and he was one of the people to whom it was being sold.

MR. IANNUZZI: We don't have any proof --

THE COURT: Seat the jury, Mr. Adler.

MR. IANNUZZI: May I object to it then?

THE COURT: You made your objection very clear. My ruling is very clear and it is very clear you have an exception.

MR. IANNUZZI: All right.

THE COURT: Seat the jury.

(The jury is in the jury box.)

MR. IANNUZZI: May I proceed?

THE COURT: That last question was never answered. Don't you have the question?

(Whereupon, the last several questions and answers were read by the reporter.)

THE COURT: Oh, I thought you were still questioning.

MR. PUCCIO: I had finished.

MR. IANNUZZI: It was at that point I made an objection.

(continued on next page)

RECROSS EXAMINATION

BY MR. IANNUZZI:

Q Mr. Sauve, I think you indicated that during the period of time there were various tape recordings being made of telephone conversations and you kept yourself current with the contents of those conversations, is that correct?

A Yes.

Q As a matter of fact, you are aware, I would assume, of the contents of the conversations in each transcript relative to this case?

A Yes, I am.

Q In conjunction with your duties, is it your obligation that the time that you discover contraband, to wit, narcotics, to, if you can, affect an arrest, is that not correct?

A That is correct.

Q You are aware of the fact that on January 5,1971 a conversation was allegedly overheard between Mr. Oddo and Mr. Vanacore and Mr. Dasti in which Mr. Dasti urged the people to come to Montreal to be shown certain suits, you are aware of that?

A Yes, I am aware.

Q In the context of the investigation, did those suits to you represent narcotics?

A Yes, they do.

Q When Mr. Dasti was extending an invitation to come to Montreal on the 5th of January, in order to see these suits, or in your mind the narcotics, was that in your mind the fact that those narcotics were there in Montreal?

A No.

Q You didn't think that?

A No.

Q Did you undertake an investigation concerning the same?

A Concerning the --

Q The narcotics in Montreal or the possibility of narcotics being in Montreal?

A Did I?

Q Yes, you, sir.

A Of course I was working on them all the time.

Q Did you thereafter keep a surveillance of Mr. Dasti to ascertain the fact they were narcotics?

A Yes.

Q Did you at any time affect an arrest concerning Mr. Dasti and Mr. Catania in Montreal?

A No.

Q Did you conduct a surveillance of Mr. Catania when he left Montreal?

A No.

Q Did you conduct a surveillance of Mr. Catania when he left Montreal to ascertain what flight he left on?

A No, I did not.

Q You did, of course, conduct a surveillance at one point when Mr. Catania was in Montreal, is that correct?

A Yes, I did.

Q However, nothing was done to follow up that surveillance of him?

A No, sir.

Q By the way, you indicated something about a surveillance that had been made in October of 1970, is that correct?

A Yes, October 6th.

Q October 6th, 1970?

A Yes.

Q At the Oscar Hotel?

A Motel, yes.

Q At that time, sir, did you see Mr. Frank Cotroni in, or near, or in the vicinity of Oscar's Motel?

A No, I did not.

Q Did you see him in the vicinity of the other restaurant in which you were located?

A (No response.)

Q You said you and Corporal Beers went into a different restaurant or luncheonette?

A I did not see Mr. Cotroni.

Q At no time?

A At no time.

Q You did not see him at any time at or around that period of time during that surveillance with Mr. Vanacore, did you?

A No.

Q Or with Mr. Oddo?

A No.

Q Or with Mr. Altamura?

A No.

Q Or overhear any conversations between the three of them?

A No.

MR. IANNUZZI: I have no further questions.

THE COURT: Mr. Klar?

MR. KLAR: Yes, sir.

(continued on next page)

RECROSS EXAMINATION

BY MR. KLAR:

Q Did you write a report about this surveillance on October 6th?

A Mr. Beers was writing the reports.

Q Did you see a copy of that report?

A Yes.

Q Do you have a copy of that report?

A No.

Q Does Mr. Beers have a copy of that report?

A I wouldn't know if he has a copy of it.

Q You said that during the course of your surveillance you went into have coffee, is that correct?

A Yes.

Q How long were you in this coffee shop?

A Fifteen minutes, maximum.

Q How long before this Altamura came in?

A He walked in right after us.

Q How long did he stay in the --

A He stayed in the coffee shop for approximately ten minutes.

Q When he left, I assume you followed him out?

A Yes, we did.

Q How long -- withdrawn.

Then he went to the Oscar Motel?

A Yes.

Q How long was he in the Oscar Motel before he came out?

A How long he was in the Oscar Motel?

Q Yes.

A I would say approximately three-quarters of an hour.

Q Did you overhear any conversations between Mr. Altamura and Mr. Dasti?

A No, I did not because I didn't go in the motel-restaurant.

Q Did you ever see Mr. Altamura with Mr. Dasti again?

A No, I did not.

Q Did you ever overhear any conversations between Mr. Dasti and Mr. Altamura?

A No.

MR. KLAR: No further questions.

THE COURT: Anything further, Mr. Puccio?

MR. PUCCIO: Nothing.

THE COURT: You may step down; next witness. Are we ready for Mr. Couture?

MR. PUCCIO: Yes. I would like to have

A 2117

Mr. Couture step back on the stand for a few additional questions.

B E R N A R D C O U T U R E, recalled as a witness, having been previously duly sworn by the Clerk of the Court, resumed the witness stand and testified further as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Now, let me direct your attention to the Vegas Three wiretap, Mr. Couture.

A Yes.

Q That would be the wiretap that you testified was on a telephone located at the residence of Mr. Dasti.

Now, during the time period beginning 8:00 p.m. January 21 until 8:00 p.m. January 22, 1971, did you intercept and record a telephone conversation between Mr. Horvath, Joey Horvath, and Mr. Dasti?

A Yes, sir, I did, sir.

Q Was that an incoming call placed by Mr. Horvath to Mr. Dasti?

A Yes.

Q You listened to a tape recording of this conversation?

A Yes.

Q However, this was not one of the conversations

that you retained, but it was discarded, is that correct?

A Yes, sir.

Q But you did make up a log or summary of this conversation?

A Yes, sir.

Q Tell us, as best you can remember, what Mr. Horvath said and what Mr. Dasti said during the telephone conversation? If you feel it necessary, refer to the log.

A Yes, sir.

At that time Mr. Dasti says to Horvath that he gave the money to Guido Orsini for Frank Cotroni. And Dasti says that he was holding one thousand three hundred dollars for Frank Cotroni. He still has one thousand three hundred dollars of Frank Cotroni's money and Mr. Dasti says this money, a thousand three hundred dollars, he will give it to Mr. Cotroni as soon as he sees him.

And Horvath asked him if there was something new concerning a certain thing.

Q Who was speaking now, Horvath says he has something new concerning a certain thing?

A Yes, Horvath says "I will talk to you tomorrow and you'll speak to me about it."

Q Now, you've indicated, Mr. Couture, that there

were certain conversations that were tape recorded but the tape recordings were not retained by your office, is that correct?

A That is correct, sir.

Q The decision to retain or discard a tape of a conversation was one made by you, is that correct?

A Yes, sir.

Q Would you explain for us why you didn't retain every conversation?

MR. IANNUZZI: Objection, if your Honor pleases. This is repetitious and improper.

THE COURT: Objection sustained.

A Because at that time --

THE COURT: No. I have sustained objection to the question.

MR. PUCCIO: I have no further questions.

THE COURT: All right, Mr. Iannuzzi?

MR. IANNUZZI: Thank you, sir.

THE COURT: Mr. Iannuzzi, all the jurors have retained copies of Exhibit 35. Do you intend using them in any way or should we cart them?

MR. IANNUZZI: I am not sure at the moment. Judge, there was a document before we had discussed out of the hearing of the jury or before the

jury came in and it was going to be given to me. Perhaps -- I thought I might be able to have them in conjunction with this cross-examination.

THE COURT: The jury may be excused.

(The jury left the courtroom.)

THE COURT: Do you agree that the tape of the conversation between Mr. Dasti and his wife is in evidence as Mr. Puccio represented?

MR. IANNUZZI: Do I agree it is in evidence?

THE COURT: I make two references, one a conversation Mr. Dasti to his wife where he was coming to New York.

MR. IANNUZZI: Yes.

THE COURT: So we are only talking about the one reference I made while a fellow named Colder and he ran into Cotroni --

MR. IANNUZZI: Or spoke --

THE COURT: No, met Cotroni in Acapulco and Cotroni was unhappy about the deal in New York and all the references in parentheses were assumptions made by whoever made the log out.

I thought Mr. Couture testified later to the very conversation.

MR. IANNUZZI: No, sir.

A 2121

Couture

MR. PUCCIO: I think your Honor read it.

It is from Vegas PT which is a public telephone at the Victoria Sporting Club, 8:00 p.m., 1/18/71, to 8:00 p.m., 1/19/71.

THE COURT: You had better listen to it.

MR. IANNUZZI: I am going to write something down.

THE COURT: All right.

MR. IANNUZZI: 1/18 to 1/19.

MR. PUCCIO: Between 8:00 p.m. and 8:00 p.m.

THE COURT: Incidentally, these documents in the sealed exhibit, Exhibit number 44 is it?

MR. PUCCIO: 43.

THE COURT: Are logs made by Mr. Couture?

MR. PUCCIO: That is correct. Well, quoting, then they spoke in italian, discussed certain papers that some person must be reached. Cola speaks of a guy (Frank Cotroni) who he met with before he left on a trip. (Altamura). This guy (Frank Cotroni) would not have been pleased with something supposedly done by Frank Dasti. Are (possibly narcotics) transactions between Mr. Dasti, Oddo, and Vanacore. Re transaction took place 1/10/71 in New York (cocaine). They spoke of police raids at joints --

THE COURT: I won't give them that much.

MR. PUCCIO: I think that is the substance of it.

THE COURT: Would you like to examine this witness outside the hearing of the jury about what this meant?

MR. IANNUZZI: Well, perhaps.

THE COURT: If you want to, go ahead.

MR. PUCCIO: At this point, maybe I can have some of Mr. Stewart's 3500 material marked and turn it over. There is a legitimate reason for waiting, we weren't sure we were going to use Mr. Stewart and we didn't want to pinpoint the day of his arrival in New York.

First, this is an extract from Mr. Stewart's direct testimony in the United States against Bynum case. I would like to have that marked.

THE COURT: Only the direct?

MR. PUCCIO: Your Honor, I have three volumes in court with me. I will turn over to defense counsel -- it is an appendix, United States Government on appeal -- and I should say United States against Bynum -- I am sorry, it is the Bynum case but it contains the direct and cross-examinations of Mr. Stewart. I will admit

haven't read the entire thing, but there are many, many transactions involved in this case. I am handing over and respectfully pointing counsel to what I think is relevant in this case and inviting them, if they want, to borrow the copies overnight or maybe --

THE COURT: Bynum was the man Judge Pollack is conducting hearings on relating to wiretaps on the minimization claim?

MR. IANNUZZI: Yes, sir.

THE COURT: Has that been completed?

MR. IANNUZZI: Yes.

MR. PUCCIO: I think about a month ago there was a hearing I believe former Attorney General Mitchell testified concerning the authorization.

THE COURT: That's right.

MR. IANNUZZI: That was the second of the hearings conducted by Judge Pollack. He made a decision and after the Circuit Court read the findings, I think they made a decision.

THE COURT: I don't think anything except Stewart's testimony in Bynum is relevant here.

MR. PUCCIO: As far as I can see, the only thing relevant is Stewart's testimony.

THE COURT: Is he the only witness who will

testify here and testified in Bynum?

MR. PUCCIO: Yes. We can recheck if there is anything other than I handed over. I would like to get Mr. Stewart out of here today if possible.

THE COURT: Yes. You mean complete his testimony?

MR. PUCCIO: If we could.

THE COURT: We can certainly start him.

MR. IANNUZZI: May I suggest --

THE COURT: Is he your last witness?

MR. PUCCIO: We are getting close. I may have a couple of more short witnesses.

In addition to that, I have an extract from Mr. Stewart's Grand Jury testimony in connection with the Bynum matter on October 5, 1971 that I would like to have marked. I also have Mr. Stewart's entire Grand Jury testimony which I ask to have marked. Again, I have taken out what I think pertains to this court.

(continued on next page)

THE COURT: Mr. Stewart testified before which Grand Jury?

MR. PUCCIO: The October 5, 1971 and September 28, 1971.

THE COURT: That is just three copies, that is not three volumes?

MR. PUCCIO: Three volumes. There is the testimony of other people in here.

THE CLERK: Eighteen pages of transcript, marked Government's Exhibit 3500-10.

THE COURT: Who represented Bynum?

MR. PUCCIO: Jack Evzeroff.

THE COURT: You may be able to get what you want from him.

MR. IANNUZZI: Yes.

THE CLERK: Three pages from Grand Jury minutes, marked 3500-11.

Grand Jury minutes dated September 28, 1971, marked Government's Exhibit 3500-12.

Grand Jury minutes dated October 5, 1971, marked Government's Exhibit 3500-13, and

Three Volumes of Appendix, marked Government's Exhibit 3500-14.

THE COURT: Are we ready for cross-examination?

MR. PUCCIO: Do you want me to hand over the rest

of the 3500 Material?

THE COURT: If you can, I would appreciate it.

MR. PUCCIO: I have a report by Richard Moser, Special Agent, dated January 8, 1971, concerning a debriefing of the Informant Thomas Harris. That was the code name for George Stewart. I have taken the portions of that debriefing statement that pertain to this case, and Xeroxed them, and I would like to have that marked.

THE CLERK: Report consisting of three pages, marked Government Exhibit 3500-15 for identification.

MR. PUCIIO: Your Honor, I have the full three-page report in front of me. I have bracketed what I have handed over. I would like to hand up the report to the Court.

THE COURT: Would you mark that?

THE CLERK: So marked as Government's Exhibit 3500-16.

THE COURT: Is there any reason to withhold any of the other information? Isn't it all a matter of public record?

MR. PUCCIO: I can't really determine at this point. It pertains to other transactions, which I am sure --

THE COURT: If it has already been disclosed, why should I have to edit it?

MR. PUCCIO: I really do not know that. There is plenty of information about Mr. Stewart's narcotics activities in the transcript in the Bynum trial.

I have another report of Richard Moser, dated January 13, 1971, concerning Mr. Thomas Harris, who is George Stewart, and I am handing over that report in its entirety.

THE CLERK: Consisting of two pages, marked Government's Exhibit 3500-17 for identification.

MR. PUCCIO: I have another report by Agent Theodore Handoga, dated January 13, 1971, concerning a debriefing of the Informant Thomas Harris. I am handing that over in its entirety.

THE CLERK: So marked as Government's Exhibit 3500-18.

MR. PUCCIO: I have another report of Agent Theodore Handoga, dated January 25, 1971, concerning a debriefing of Mr. Stewart, also known as Thomas Harris. I am handing over the bracketed portion of that.

THE CLERK: So marked as Government's Exhibit 3500-19.

MR. IANNUZZI: May I just understand, is Mr. Puccio's intention to bring Mr. Harris in to testify?

THE COURT: Harris is Stewart.

MR. PUCCIO: He is Mr. Stewart.

MR. IANNUZZI: That is the same person?

THE COURT: That is his code name.

MR. IANNUZZI: May I suggest in reference to this: We have just been given six documents that we have never seen before. I think we should have time to peruse the same.

THE COURT: You will have the time. Let us get through with this witness.

MR. IANNUZZI: I would also suggest in reference to this that this is allegedly a transaction which Altamura, Vanacora and possibly Dasti met with respect to in 1970. I am making this as my observation. I would move for a mistrial and a severance because this is prejudicial to Cotroni and irrelevant to him, except on the tangential aspects that possibly he entered a Conspiracy with Dasti as to something in December.

THE COURT: You did not get the full thrust of Mr. Puccio's statement. He is going to offer some physical evidence, aren't you?

MR. PUCCIO: Yes, a lab report and a chemist.

THE COURT: All right, the report of the chemist.

MR. IANNUZZI: I understand that.

THE COURT: He has to show a connection between what Stewart got --

MR. IANNUZZI: If your Honor pleases, this is be-

ing brought in by way of testimony of Harris, also known as Stewart, or vice versa, and it is based purely on the hearsay of Cordvano, Altamura, none of which is admissible in this case. They are not binding on these Conspirants, if they are Conspirants. There is no connection between these and the defendant Cotroni. There is no allegation that he was involved in the Conspiracy with them. It is only brought in upon the tangetial aspect of showing a sample of heroin that is so speculatively connected by way of two hearsays, it is impossible to eliminate any kind of prejudice that is likely to result from this testimony. I suggest that it is absolutely without foundation, to the extent that there is no earmark on cocaine. This is just bringing in someone named Stewart who is a confessed narcotic transactor, who was involved in the Bynum case, who heard all kinds of hearsay as to where this came from. He has no direct knowledge --

THE COURT: All you are saying is that it is circumstantial evidence.

MR. IANNUZZI: I am not saying that.

THE COURT: That is what I am saying.

MR. IANNUZZI: I am saying it is hearsay -- It is totally hearsay.

THE COURT: It is not at all.

MR. IANNUZZI: There is nobody in this Conspiracy -- in this case who we can say it will be binding if Altamura heard it.

THE COURT: Altamura apparently knows Oddo, Dasta and Vanacora. Altamura is found with one-half a kilo some place in Brooklyn --

MR. PUCCIO: No, no, Altamura delivered five kilograms --

THE COURT: To Vanacora.

MR. PUCCIO: No.

THE COURT: Who took the half?

MR. PUCCIO: What happened was that Mr. Stewart can testify that he met with Altamura in January, and he said there would be something coming from the people in Canada. After that, on January 10, which is the date of delivery, he received a call from Mr. Cordvano who was present at the meeting with Altamura, where they were told that something was coming from Canada.

Mr. Cordvano said to take the machine to seal narcotics and go over to Bynum's residence in Brooklyn, which Stewart did. While at the residence, he received another call from Cordvano, and tells him to wait there. Cordvano arrives at 1:00 A.M. on the 11th with five kilograms of cocaine. The cocaine, I might add, is brownish and it is sticky. He indicates that Altamura received

nine kilograms, and these are five of the nine that Altamura received.

THE COURT: Of course it is hearsay, but it is introducible on the theory of a Conspiracy, and you are entitled to a limiting charge.

MR. IANNUZZI: Altamura and Cordvano have nothing to do with the defendants here. How can they be bound in the same Conspiracy?

In addition to which, Mr. Altamura isn't the one who is saying all this, and Stewart didn't hear this from Cordvano. Cordvano says, "Here's five kilos --"

THE COURT: You have an exception, Mr. Iannuzzi. I will give a limiting instruction. That is all you are entitled to.

MR. IANNUZZI: I would move for a mistrial.

THE COURT: Motion denied.

MR. KLAR: Any objections that Mr. Iannuzzi makes as to Mr. Cotroni, I would ask be made as to Mr. Dasti, and I join in the motion for a mistrial.

THE COURT: Motion denied.

MR. PUCCIO: I have a report dated February 3, 1971, by Agent Moser, concerning the debriefing of George Stewart. I am handing over the bracketed portion, your Honor.

THE COURT: May I see what part of this report

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you have turned over?

MR. PUCCIO: The bracketed-in-red portion.

THE COURT: You included the bracketing from here?

MR. PUCCIO: Which one is that?

THE COURT: You only gave me one report.

May I see what you have turned over?

MR. PUCCIO: Which date is that? There are five reports altogether.

THE COURT: January 8th.

MR. PUCCIO: Here is what we turned over.

(Document handed to Court.)

MR. IANNUZZI: May I a so add for the record --

THE COURT: All right, you gave them a little more than I thought they were entitled to.

MR. PUCCIO: Maybe there are two different reports.

THE COURT: Seal 3500-16.

MR. PUCCIO: Could we leave the envelope open? I will check tonight if I am able to hand over the rest?

MR. IANNUZZI: Judge, may I further suggest that this -- I haven't had an opportunity to read all of these things yet because we have just been standing here -- but it indicates that Harris apparently states that he received some cocaine from Cordvano, who in turn said he

received it from Altamura. I suggest this is in connection allegedly to a twenty-four kilogram cocaine transaction. I suggest that this is a different --

THE COURT: Are you offering Cordvano's testimony?

MR. PUCCIO: Just Stewart's.

THE COURT: Stewart's statement as to what Cordvano said?

MR. PUCCIO: Yes.

THE COURT: How does Cordvano fit into the Conspiracy?

MR. PUCCIO: Cordvano and Stewart met with Altamuro on January 4th. He speaks of the cocaine coming in from the people in Canada. Subsequently, on January 10th, Cordvano calls Stewart and tells him to go to Bynum's house, and he later comes to Bynum's house during the early morning of the 11th with five kilograms, and he tells him this is the stuff that Altamuro got from the people in Canada. There were nine kilos, and here are five. The cocaine is gummy and sticky and brown. Cordvano, of course, is quoting Altamuro.

MR. IANNUZZI: May I suggest at this point Harris is not saying what Altamuro says, he is saying what Cordvano said.

THE COURT: The question is whether Cordvano is a

member of the Conspiracy.

MR. PUCCIO: We submit that he is, your Honor.

MR. IANNUZZI: I will suggest that it is a twenty-four kilogram transaction, which has never come into consideration in this case, and therefore if somebody has thirteen kilos in addition to nine kilos, then the question is, Is this a sample from the nine or thirteen, and Stewart can't testify, because he is saying what Cordvano said.

Mr. Puccio says that Ultamuro says that there will be some cocaine. That's all that he says.

Let's say that Stewart says that which Altamuro says. Thereafter, Altamuro says nothing except what Cordvano says. I suggest at that point there can be no suggestion, because Altamuro doesn't say it, because it is Cordvano that is saying it.

THE COURT: The Government will have to prove that Cordvano is a member of the Conspiracy, otherwise it cannot be considered.

MR. IANNUZZI: May I suggest, if your Honor pleases, that the mistrial should be declared, because none of this information was brought forward -- none of it was indicated in the indictment, none in the bill of particulars.

MR. PUCCIO: Yes, it was in the bill of particulars,

your Honor.

MR. IANNUZZI: I suggest --

MR. PUCCIO: It was not known at the time of the indictment. The bill of particulars calls for co-Conspirators that have become known to the Government after the indictment, and we made that information available.

THE COURT: When were you first advised about that Mr. Stewart could testify, and when were you advised that Vanacora and Altamura were members of the Conspiracy?

2 fls

(continued on next page.)

MR. IANNUZZI: May I suggest that the report is dated January 13th, 1971, three days after the said transaction.

MR. PUCCIO: But I wasn't advised at that time.

THE COURT: When did you make your motion for a bill of particulars?

MR. IANNUZZI: November 27, 1974 and we did not get an answer to it until Tuesday of last week.

THE COURT: I thought it was part of your omnibus motion.

MR. PUCCIO: It was.

MR. IANNUZZI: Made November 24, 1971 and I suggest respectfully that this information was in the Government's hands in the DEA on January 13, 1971, three days after the alleged conspiracy, including all information concerning Canada, et cetera. All of this information was in the Government's hands.

I suggest at this point to bring this in on January 13, 1975 before putting a witness on the stand and bringing in cases in reference to Cordvano, Stewart, Altamuro, Bynam, I suggest is wholly prejudicial to the defendants. It is impossible to cope with this at this point when there has been no indication that this is in fact part of the same conspiracy.

THE COURT: How early do you think you should have it, so you could cope with it?

MR. IANNUZZI: If the Government is claiming that that is part of the same conspiracy, what the Government has indicated in all the papers to date, is misrepresentative and misleading.

MR. PUCCIO; I would like to see the misrepresentative and misleading portions of the Government's papers.

THE COURT: I have a copy of this omnibus motion that I complained about. It is dated December 6, filed December 7, and I think heard December 27.

MR. IANNUZZI: As a matter of fact, if your Honor pleases on December 27 we had a hearing which was the day after Thanksgiving, and I asked you when we had to make these motions and in conjunction with conversations with Mr. Puccio you indicated that they could be made at any time sufficiently in advance so they could be discussed and heard and Mr. Puccio was going to get together with me and discuss various information so that we might eliminate the necessity.

THE COURT: Where was the motion that you made in November?

MR. IANNUZZI; This is the one that I referred

to in November and your Honor said -- you said originally on November 14th that they had to be made on the 27th. While here on the 27th --

THE COURT: You said you made a motion for a bill of particulars in November? Where is it?

MR. IANNUZZI: If your Honor pleases, I am coming to that. On November 14 you said that all motions will have to be made on the 27th. On the 27th when we were here I asked if you wanted to go into the motions now and you said, "Put them on paper." At that point you indicated that Mr. Puccio and I should get together with reference to the bill of particulars. I never got a bill of particulars until December 7th -- January 7, 1975 when we were on trial. I never even got an answer to any letter that I sent to Mr. Puccio or to yourself and I never got a bill of particulars and I never got an answer to those motions until January 7, 1975.

MR. PUCCIO; If your Honor pleases --

MR. IANNUZZI: Nobody ever mentioned this information.

THE COURT: I have your motions made. The notice is dated December 6, it is filed December 11.

MR. PUCCIO: May I ask when your Honor ordered that the bill of particulars be filed?

THE COURT: I heard this on the 27th.

MR. PUCCIO: I filed the bill of particulars a few days after you heard it.

MR. IANNUZZI: On the 6th of January.

MR. PUCCIO: I think it was later than that that your Honor --

THE COURT: The very day that we were picking a jury.

MR. IANNUZZI: That is right.

MR. PUCCIO: I think your Honor heard the motions on Thursday or Friday and I filed the bill of particulars on a Monday, the day we were selecting the jury.

THE COURT: What is your complaint now that you do not have enough time to prepare?

MR. IANNUZZI: I am suggesting if this is an additional conspiracy --

MR. PUCCIO: It is the same conspiracy.

MR. IANNUZZI: Well, I would like to know if this has been -- I suggest that this information has not been brought to the defendants' until right here and right now.

MR. PUCCIO: It is in the bill of particulars. Cordvano's name is in the bill of particulars as a co-conspirator. Stewart's name is in the bill of

particulars. Bynam's name is in the bill of particulars, on the first page, your Honor.

THE COURT: I saw that, but I don't know whether you expanded on it or he asked for it.

MR. IANNUZZI: I asked for it.

THE COURT: For all overt acts?

MR. IANNUZZI: Overt acts, any acts.

THE COURT: I knew that is what it was. I read a case late last night --

MR. IANNUZZI; I asked for a lot more than overt acts.

THE COURT: Judge Newman of Connecticutt, sitting by designation, wrote the opinion and it said that the Government does not have to give all the overt acts. I said "God, who asked for that recently." I will give you the case.

MR. IANNUZZI: I asked for more.

THE COURT: You were not entitled to all of that.

MR. IANNUZZI: I asked for other acts of the conspiracy.

MR. PUCCIO: That is the same thing.

MR. IANNUZZI: These are extensions of the conspiracy.

THE COURT: All aspects of the conspiracy.

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What kind of information would you expect the Government to give you if you asked for all aspects?

MR. IANNUZZI: I think my motion papers cover that. I do not have them with me. I know they were rather complete. You ridiculed them because you thought I made them from a book going from A to Z.

THE COURT: That is correct.

MR. IANNUZZI: That is not true because I do not practice law that way. I do not have to.

THE CLERK: Two-page report dated February 3, 1971 of Richard Moser marked Government's Exhibit 3500-21.

THE COURT: You do not ask for all the overt acts, not that you would have gotten them.

You just referred to the overt acts alleged, the exact time, place, conversation and who was present. I denied all that.

Even under your bill of particulars, you are not entitled to this information.

MR. IANNUZZI: I say the request in the motion --

THE COURT: Here's your motion for a bill of particulars. You show me where you asked for information that would have helped you meet this Government's proof?

MR. IANNUZZI: State whether it is claimed

there was only one combination conspiracy, et cetera, or whether there was separate and distinct combinations of conspiracies, et cetera.

If it is claimed there is more than one combination, then the details as to each such combination, names, dates involved and each such case --

THE COURT: That was answered in two words, one conspiracy. Next.

MR. IANNUZZI: State whether any persons other than named were present at or participated in any of the overt acts and if so names and other details requested --

THE COURT: I wouldn't give you that.

MR. PUCCIO: I did.

THE COURT: Even if I directed the Government to give this to you, how would the Government tell you about this incident where Stewart says he went to Bynam's house or store and picked up the cocaine?

MR. IANNUZZI: State whether the Government intends to prove or offer evidence with respect to any overt act or acts other than those enumerated. If so set forth the details, names, addresses, conversations, et cetera.

THE COURT: That is denied.

MR. PUCCIO: We have indicated that we would.

MR. IANNUZZI: Those motions were made quite a while ago.

THE COURT: I do not care if they were made six months ago. They would have been denied at that time.

Ask Miss Toy to bring in the slip opinion, please.

MR. IANNUZZI: We also have -- by the way, I might suggest that there is certainly a lack of specificity in an indictment referring to this kind of an item --

THE COURT: There is enough to prepare for trial. I have already held that. You can argue that in the Court of Appeals.

MR. IANNUZZI: A bill of particulars cannot amend an indictment.

THE COURT: I agree with you. It does not amend. It particularizes it.

MR. IANNUZZI: There was nothing in the indictment that would -- could be particularized.

THE COURT: You have argued that so many times and I denied it every time. I promise you if you repeat the motion a hundred times before this trial is over, you will get the same determinations.

I have been known to change my mind, but not

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when I have said it twenty times.

MR. IANNUZZI: We have had numerous indications from the Court marveling at the amount of the 3500 material that was supplied by the Government, that we have absolutely everything that is in the case. I might suggest that we never got anything with reference to this.

THE COURT: I said that you have everything in the case? Would you like to take that out of the transcript?

MR. IANNUZZI: I would suggest that you indicated that the defendants had been given far more than you have ever seen --

THE COURT: And I will repeat that.

MR. IANNUZZI: I suggest what we were given is a subterfuge and a fog.

THE COURT: You are damned if you do and you are damned if you do not and you are damned because you did.

MR. IANNUZZI: I suggest --

THE COURT: United States against McClosky --

MR. IANNUZZI: I might suggest --

THE COURT: Just a moment.

It was decided on January 6, page 5966. There is no general requirement that the Government disclose

in the bill of particulars all the overt acts in establishing a conspiracy charge, citing United States against Ianello. Hence the broad request made by appellant was properly denied. Yours was pretty broad.

MR. IANNUZZI: May I suggest it was absolutely necessary because we did not get the information that is necessary to defend against this suit.

THE COURT: Are you ready to proceed with cross-examination?

MR. IANNUZZI: Of this witness?

THE COURT: Seat the jury.

MR. IANNUZZI: I am not in any fashion indicating that I would be prepared to cross-examine Mr. Stewart.

THE COURT: When we come to that, I will ask you the question. This case will go over to next week if need be.

MR. IANNUZZI: That is perfectly satisfactory.

THE COURT: It is all right with me.

MR. IANNUZZI: I would like to recall Mr. Sauve.

THE COURT: Now?

MR. IANNUZZI: Perhaps now.

THE COURT: Will he be here for a while?

MR. PUCCIO: We can bring him down now.

THE COURT: I suspect this witness will be on the stand for some time. Suppose we bring Mr. Sauve down.

MR. PUCCIO: Do you want us to bring him down right now?

THE COURT: Then he could leave.

MR. PUCCIO: He will be here for the remainder of the trial.

THE COURT: He will?

MR. PUCCIO: He is the RCMP agent in charge.

THE COURT: Do you want to wait then?

MR. IANNUZZI: That is all right, Judge.

THE COURT: All right, seat the jury.

MR. IANNUZZI: I think this is your Honor's file copy?

(Document handed to Court.)

(Continued next page)

RECROSS-EXAMINATION

BY MR. IANNUZZI:

MR. IANNUZZI: May I proceed, sir?

THE COURT: Please do, sir.

Q Mr. Couture, you indicated that you heard all of the conversation despite the fact that all of them have not been retained?

A That's correct.

Q And all the logs made out by yourself?

A Yes, sir.

Q And you mentioned this morning, I believe, that there was a conversation in which Mr. Dasti on the 16th of January spoke to Mrs. Dasti. Do you recall that, sir?

A Yes, sir, I could, if you had some reference to give me.

Q It's January 16th and it's a call from Mr. Dasti to Mrs. Dasti, so I assume it's on Vegas 3.

A Yes, sir.

Q Do you recall that specific conversation that you spoke about this morning?

A Yes, sir.

Q And, in which, apparently Mr. Dasti indicated that he had to, the certain people were bringing some money

to him on Sunday?

A Yes, sir.

Q And that he therefore was going to pick up some money in New York. Is that correct?

A Yes,sir.

Q And as a matter of fact was there not a tape recording conversation where one of the participants in the conversation indicated being in New York, would bring the money to Mr. Dasti?

A It could be, sir.

Q Isn't that a fact, that somebody in New York in the conversation offered to bring some money to Mr. Dasti in Montreal and Mr. Dasti said that's his personal money and that was to do something else?

Q Yes, sir. There was a phone call made to Mr. Dasti in which Mr. Dasti says to an unknown male that he was to go down to New York to pick up some money, personal money?

A Yes, sir.

Q And then there was also conversation about Americans coming up to Montreal with money from New York?

A Yes, sir.

Q And was it in fact that there were at least two separate transactions that were going on a the same

time in which Mr. Dasti was involved?

A One was personal money to Mr. Dasti and the other one was money that Mr. Dasti was to get from the American.

Q There were two separate amounts of money that were coming to Mr. Dasti?

A Yes, sir.

Q And both of these sources were being spoken of over the telephone?

A Yes, sir.

Q And as a matter of fact, there were conversations concerning Americans going up to MOntreal, is that acorrect?

A Correct, sir.

Q And by the way, these conversations, these meetings, or the trip of the Americans to Montreal were at times when Mr. Cotroni was not in Montreal. Is that correct?

A Well --

Q To wit, the 15th of January, 1971?

A Yes, sir. Correct.

Q Is that correct?

A Correct, sir.

Q And that these people were to go up to see Mr. Dasti in Montreal at the time that Mr. Cotroni wasn't

there?

A That's correct, sir.

Q And by the way, you indicated that a conversation on the 20th of January between Mr. Orsini and Mr. Cotroni -- you mentioned that this morning, did you not?

A Yes, sir.

Q And there was also a conversation that you destroyed because it was not sufficiently important to keep the conversation?

A That's correct.

Q However you did speak about the fact that Mr. Orsini was to bring some money to Mr. Cotroni. Is that correct?

A That's correct, sir.

Q And you mentioned, however, this morning something about a New York transaction. Isn't that correct?

A I mentioned it, sir.

Q But that wasn't in the conversation, was it?

A No, sir.

Q So that all that was said in the conversation was that Mr. Orsini was to bring some money to Mr. Cotroni?

A In Acapulco?

Q Yes, that is where Mr. Cotroni was.

A Yes, sir.

Q The thing about the New York transaction, you added.

A It was to be between parenthesis.

Q That wasn't in the conversation, that was, those were your comments?

A Correct, sir.

Q And by the way, in these conversations that you have heard, were there not conversations between Mr. Cotroni and for instance a person named Orlando concerning a night club?

A It could be, sir.

Q Well, as a matter of fact, in Vegas 5, Page 33, whatever that refers, 33?

A Yes, sir.

Q Do you have that?

A Yes, sir.

Q That phone conversation from Mr. Orlando to Mr. Cotroni?

A Yes, sir.

Q Where they were discussing a club --

THE COURT: Mr. Iannuzzi, so that the jury is not confused, you are referring to another exhibit, not Exhibit 39 that the jury had. You are referring to an exhibit that is not in evidence.

MR. IANNUZZI: I am referring to logs of conversations other than those presented by the government which were taken and heard by this witness.

THE COURT: It's perfectly proper but I don't want the jury to go looking for something through these conversations, because he saw, I see the witness looking at the book that you think you have. It's not the same thing. It's not in evidence.

Q Did Mr. Orlando speak with Mr. Cotroni?

A Yes,sir.

Q Did he speak about his club?

A Orlando is talking about the club, the night club Casino Cartier. He said to Cotroni that he wants to take charge of this night club.

Q And was it also in that that Mr. Cotroni in speaking about this club was also indicating that certain aspects of the operation might be, or that certain things that this man wanted to do would be illegal and Cotroni told him to go to the Liquor Authority and to be sure that everything was legal concerning its operation?

A Yes, sir.

Q Is there any question in your mind that Mr. Cotroni from time to time spoke to people on his telephone, spoke about night clubs and restaurants in Montreal?

A He did with Orlando.

Q And he did in other places, didn't he?

A Would you like to give it to me?

Q All right. Then I will go one at a time.

A Yes, sir.

Q Was it Mr. Cotroni's club or Mr. Orlando's?

A I couldn't tell you. All I know is that Mr. Cotroni went to this club quite frequently.

Q All right. He went to the club frequently and Mr. Orlando who apparently owned it was talking with Mr. Cotroni concerning its operation. Is that correct?

A That's correct.

Q And Mr. Cotroni insisted that it be operated legally and legitimately?

A That's correct.

Q Were there not also conversations concerning Mr. Cotroni with for instance -- I will try to ascertain what Vegas project this is but it's blurred at the top. In any event it's a conversation that was on the 17th of December and it was between a Mr. Desimoya and Mr. Cotroni.

A Do you have the reference as far as the Vegas project?

Q I will show it to you perhaps you may be able to recognize it better than I. May I do that, Judge?

THE COURT: Yes.

A On what date, sir?

Q This is the 12th month, the 17th day. I think it's Vegas 3 or 5, I am not sure.

A Well --

Q Do you wnat to look at this page again?

A I think that's better.

Q All right. Take a look at it. Do you have it now, sir?

A Yes, sir.

Q And, sir, in that conversation -- or is there a conversation there where Mr. Paul Desimoya, by the way you mentioned Desimoya several times; is he Mr. Cotroni's brother-in-law?

A Yes, sir.

Q Are there conversations on that same page and during that same time span where Mr. Cotroni speaks to Mr. Desimoya about junkets?

A Not that I see, sir.

Q Well, perhaps my reference is incorrect. A little further up when Mr. Cotroni speaks of a Mr. Siggy WEissman?

A Yes, sir.

Q Does he speak to him about people arriving

from Europe to go on junkets?

A Yes, sir.

Q And as a matter of fact, there are many conversations concerning junkets, are there not?

A Yes, sir, they're not talking absolutely of junket. Mr. Cotroni is talking to Siggy Weissman and Siggy Weisman and Frank Cotroni, they're supposed to meet at the Duval International Airport at 3:00 o'clock.

Q Do they mention two people from Europe going on a junket?

A They mention that there is two men or many persons coming from Europe by Air Canada, not about junket.

Q As a matter of fact, you know what a junket is, do you?

A Yes, sir.

Q Is a junket a plane of gamblers who go to places where gambling is legal?

A Yes, sir.

Q And there they gamble?

A Yes, sir.

Q For instance, to Las Vegas?

A Yes, sir.

Q For instance, to Puerto Rico and other places where gambling is permitted and these planeloads go from time totime and people that are gambling have their hotel bills

paid by the hotel and they just gamble?

A Yes, sir.

Q And isn't it a fact that there are conversations there --

THE COURT: Objection sustained unless you give the parties.

Q Mr. Cotroni spoke about these junkets with many people, did he not?

A Yes, sir.

Q Is it not a fact that Mr. Cotroni was involved in the junkets?

A That's correct.

Q Isn't it a fact that Mr. Cotroni arranged with someone for these people to go to these gambling places?

A Yes.

Q Do you have a conversation where Mr. Cotroni participated in the money that was made from sending the junket?

A Yes, sir.

Q As a matter of fact, Mr. Cotroni made some of his money that way, didn't he?

A Yes.

Q In other words, when people went out gambling on these junkets, the person or persons who arranged the

junkets were paid so much --

MR. PUCCIO: I object, your Honor.

THE COURT: I will allow it.

Q The person or persons who arranged the junkets was paid so much per head for each gambler that went to the casino and also was given a percentage of the losses of the people who gambled; is that correct?

A That's correct.

Q Isn't it a fact that Mr. Cotroni made money doing that?

A I think so, sir.

Q And you are aware of that?

A Yes,sir.

Q And he participated in that with other people including a Siggy Weisman?

A Yes, sir.

Q Do you know, by the say, as a result of your information, what percentage and what amount was paid per person?

A Yes, sir.

Q What is it?

A I couldn't tell you right now, but I have the report right here.

Q If I were to say in total the person --

MR. PUCCIO: I object to this type of question.

THE COURT: Overruled.

It might be related to the issues. I will allow Mr. Iannuzzi to try to develop it.

BY MR. IANNUZZI:

Q As a matter of fact, the total amount paid by the person is $50 and a percentage of the losses at the gambling table; isn't that a fact?

A It could be.

Q Isn't it a fact that Mr. Cotroni made money on those mamounts of money paid by the gambling casinos?

A Yes, sir.

Q Isn't it a fact he discussed these things on the telephone?

A Correct, sir.

Q Mr. Cotroni didn't have an office for the conduct of his business, did he?

A Not himself, sir.

Q And was it a matter that was legal or illegal for him to do in Canada?

A I couldn't tell you, sir.

Q It might be legal or it might be illegal?

A It could be.

Q By the way, did Mr. Cotroni speak -- withdrawn.

Were there not conversations at the end of December of 1970, concerning Mr. Cotroni suddenly having to return to Montreal because his brother-in-law died?

A Yes, sir.

Q And isn't it a fact that his brother-in-law did die?

A Yes, sir.

Q As a matter of fact, his brother-in-law died a day before or so before the New Year?

A That's correct.

Q And didn't Mr. Cotroni come back on December 31st to attend that funeral?

A He came on the 29th or 30th of December.

Q When Mr. Cotroni came back to Montreal, it was for the purpose of being at that funeral, wasn't that so?

A Yes, sir.

Q He didn't come up there to meet with Frank Dasti?

A I couldn't tell you. I have the information on the log and I know Mr. Dasti came on the 9th, 29th or 30th for the funeral of his brother-in-law.

Q You just said Dasti but you mean Cotroni?

A Yes, sir.

Q There is no question but that Mr. Cotroni's brother-in-law died?

A Pardon me?

Q There is no question that this man truly died?

A That's right.

Q And he was buried on the 31st of December?

A Yes, sir.

Q And when you spoke about Mr. Orsini bringing some money to Mr. Cotroni and the conversations concerning Orsini bringing money?

A Yes, sir.

Q Was it a specific conversation about $14,000 or did you add that in?

A No, sir, it was a specific conversation.

Q Specific conversation?

A Yes, sir.

Q About Mr. Cotroni needing some money and getting some money in Acapulco?

A That's correct.

Q And all these conversations that you talked about in reference to Orsini talking to Cotroni and Dasti speaking to Orsini, it's all about one amount of money that Orsini brought to Controni; in other words, one person would call Dasti and all of them had to do with one amount of money

that Orsini brought to Cotroni; is that right?

A Yes, sir.

Q When you spoke about a conversation between Mr. Horvath and Mr. Frank Cotroni in which Horvath said that Dasti was doing a dangerous thing -- I'm sorry, it's Vegas 5 and it's page 76, Mr. Couture.

A That's correct, sir.

Q Do you have the conversations?

A Yes, sir.

Q It's down in the pages in your log of the --

A Yes, sir.

Q You didn't keep a tape of that conversation?

A No, sir.

Q That would indicate it was not of the most important information?

A That's correct.

Q However you kept some record of it?

A Yes.

Q In the conversation Mr. Horvath says to Controni that Mr. Dasti is doing something quite dangerous?

A That's correct.

Q He says, however, Mr. Dasti will do what they have to do?

A Yes, sir.

Q Now you put the word "they" down.

A That Dasti will do when he hasto do.

Q And Dasti is doing something dangerous; is that correct?

A That's correct.

Q That's what it says?

A Yes, sir.

Q And then Horvath just said to Cotroni that Dasti will do what he has to do; is that correct?

A Yes, sir.

Q It didn't say Dasti will do what we have to do?

A Dasti will have to do what he has to do.

Q Not we or you, but it was Dasti doing all of these things and it was Dasti who was doing something dangerous and it was Dasti who was going to do it?

A He was saying to Mr. Cotroni --

Q Is that a fact, yes or no?

MR. PUCCIO: I object to the question.

THE COURT: May I have it read?

(Question read.)

THE COURT: Is this your question?

MR. IAZZONNI: It was the question.

THE COURT: Objection sustained.

Q In any event, it was not mentioned in that conversation that Mr. Cotroni was doing this, was it?

A He was saying to Mr. Cotroni.

Q I am asking you a simple question: Was it said in there that Mr. Cotroni was doing this dangerous thing?

A No, sir.

Q Was it said in there that Mr. Dasti was doing it on behalf of Mr. Cotroni?

A I think so, sir.

Q You think so, but it wasn't said?

A If you read it carefully, I think so.

Q You read your words carefully --

THE COURT: Objection sustained. Strike out that statement and disregard it.

Q When you say you read it, this was so written by yourself, of course?

A Yes, sir.

Q This is a recollection of what you heard; is that correct?

A Yes, sir.

Q However, during the conversation and in this specific thing that you wrote, it was Mr. Dasti who was doing the dangerous thing; is that correct?

A That's correct.

Q And it was Mr. Horvath who said that Mr. Dasti would however do that dangerous thing although he was aware of the fact that it was dangerous; is that correct?

A That's correct, sir.

Q And, of course, there were additional references to the junkets that Mr. Cotroni was involved in in Vegas 11, page 3; is that correct? Mr. Frank Cotroni is speaking to a Jay, J-a-y, Marlowe?

A Yes, sir.

Q And in that they were again speaking, this is January 10th and January 11th of 1971, and they were speaking about the junkets and the people who were going gambling; isn't that correct?

A That's correct, sir.

Q And this is at the same time supposedly that Mr. Cotroni was aware of the cocaine conspiracy; is that correct?

A Correct.

Q The same day?

A Same time, between -- during the 10th or 11th of January, 1971.

Q This was as a matter of fact in reference to junkets going to England?

A That's correct, sir.

Q And Mr. Cotroni was involved in arranging those junkets and making money as a result of it?

A That's correct.

Q These are all gambling junkets?

A Concerning this conversation, that's correct.

Q Pardon me?

A Concerning this particular conversation, that is correct.

Q All the junkets were gambling junkets, weren't they?

A Yes, sir.

Q And there were many of them, weren't there?

A Yes, sir.

Q They were going all the time, weren't they?

A Yes.

Q You were aware of that, weren't you?

A Yes.

Q As a matter of fact, did there not come a time in January before Mr. Cotroni returned to Acapulco that in fact Mr. Cotroni spoke with Mr. Catania on the telephone and it's Vegas 5 and it's page 79?

A That is correct, it was on the 14th of January, 1971.

Q As a matter of fact, Catania called Cotroni in Montreal; is that correct?

A That's correct, sir.

Q And at that time Cotroni said to Catania: Rent two rooms for four people at the El Presidente Hotel?

A That's correct.

Q And then Mr. Cotroni indicated to Mr. Catania that he was bringing in the material to make the shirts for his shop; isn't that right?

A Tell him that he would have the thing of the shirts.

Q The thing of the shirts?

A Yes, sir.

Q Meaning something to have to do with the shirts?

A The thing for the shirts.

Q And as a matter of fact, you know that Catania had a shirt shop?

A Yes.

Q You are aware that Mr. Cotroni purchased materials at Horrara's to bring down there?

A I wasn't aware of that.

Q And on the 20th of January in Vegas 1 B, there was a conversation between a fellow named Berkey and

a fellow named Dasti; I think it's page 305, sir.

A Yes, sir.

Q Again, concerning junkets going possibly to the hotel in Las Vegas, the International?

A That's correct.

Q And on the 22nd, again, two days later, in Vegas 3, page 100 --

A Yes, sir.

Q That last conversation between Berkey and Dasti was on the 20th; is that correct?

A Yes, sir.

Q And on the 22nd, again the conversations about Mr. Cotroni's junkets; isn't that correct?

A On the 22nd, Mr. Dasti made a call to Mr. Berkey -

Q No, above that.

A He's talking of Alonzo and Dasti.

Q Concerning Mr. Cotroni and the fact when he came back from his trip, he would have to decide several things in reference to the junkets and the handling of the junkets; isn't that correct?

A Yes, sir, Alonzo said that he has to await the return of Frank Cotroni before the signing of anything concerning the junkets.

Q That's what I asked you. That was on the 22nd,

the next day they were talking about Berkey, about the junket?

A Yes, sir.

Q And on the 23rd, again the next day, page 101 of Vegas 3.

A Yes, sir.

Q There are more conversations concerning Mr. Cotroni's junkets; is that correct?

A That's correct.

Q And on the 25th and the 25th they are talking about page 103, sir, I believe, Mr. Dasti speaking in an outgoing call concerning junkets now to the Isle of Mann?

A That's correct.

Q So every day there were conversations concerning these junkets; isn't that correct?

A That's correct.

Q Let me ask you something else, sir: Are you aware of the fact that Mr. Cotroni -- as a result of your listening to all these conversations, etc., over an extensive period of time that Mr. Cotroni was at that time involved in a hockey lottery?

A No, I wasn't aware of that.

Q You are not aware of that?

A No.

Q There was a Hockey lottery in Canada similar to our football pool over here?

A That's correct.

Q Now it's taken over by the state; isn't that correct?

A That's correct.

Q But in 1971 it wasn't?

A That's correct.

Q It's your information that Mr. Cotroni was or was not involved in that?

MR. PUCCIO: Objection. Asked and answered.

THE COURT: Sustained.

Q On the 18th of January, I don't know what Vegas project this is, but perhaps Mr. Puccio can help me with that -- there was a conversation --

MR. PUCCIO: Between the 18th and 19th, Victoria's Sporting Club.

Q -- between the 18th and 19th of January, between 8:00 p.m. on the 18th and 8:00 p.m. on the 19th --

A Yes, sir.

Q -- there is a conversation there with Mr. Cotroni?

A Yes, sir.

Q And who is speaking with Mr. Cotronia, Mr. Cola, or someone called Cola?

A There is a conversation between Mr. D'Iorio and Mr. Dasti talking about Mr. Cotroni.

Q Talking about Mr. Controli?

A Yes, sir.

Q D'Iorio is a person named Cola?

A That's correct.

Q Did Mr. Cola say he met Mr. Cotroni?

A Yes, sir.

Q And did he say to Dasti that it was, as a result of talking to Cotroni before Controni left for Acapulco that Cotroni was very made about Dasti? Did he say that?

A He didn't mention the name Controni. He mentioned the guy.

Q The guy who went on a trip?

A Yes, he was mad against Dasti.

Q Against Dasti for doing something in New York?

A Not in New York, concerning a certain thing that would have been done by Dasti.

Q Cotroni was very angry that Dasti did?

A That's correct.

Q Is that right?

A That's correct.

Q That was on the 18th of January?

A Correct, sir.

Q And it was your understanding -- withdrawn.

We don't have that tape, do we?

A No, sir.

Q The only thing we have is your log?

A That's correct.

Q And your log took the essence of the conversation and put it down; is that right?

A Right.

Q And the only recollection in the world of the conversation and the tone of the conversation and the intent and the meaning of the conversations, what you heard --

MR. PUCCIO: Objection.

THE COURT: Overruled. I will allow it.

Q -- is that correct, sir?

A That's correct.

Q Wasn't it your impression that Mr. Cotroni in the conversation may have been very angry about the narcotics transaction?

A Yes, sir.

Q And someone named Cola told Dasti of Cotroni's anger?

A Yes.

Q Is that right?

A That's right, sir.

Q And he didn't say that Controni was merely angry because of the way it was handled, did it?

A No, sir.

Q It said that Controni was angry about the whole transaction?

A About a certain thing.

Q About a certain thing and it was your impression and you're the only one who heard it, that it had to do with the narcotics transaction of a few days before?

A That's correct, sir.

Q It didn't say that he was angry about the quality of the cocaine?

A No, sir.

Q It didn't say that he was angry about the amount of money?

A No, sir.

Q It just said he was angry that Dasti did something?

A Right, sir.

Q And it was your impression that he may have been angry that Dasti even got involved in it?

A Right, sir.

Q And it was your impression as a result of Cotroni getting angry that he wasn't aware of it because he would have been angry sooner?

MR. PUCCIO: Objection.

THE COURT: Objection sustained.

MR. IANNUZZI: I have no further questions.

THE COURT: Mr. Klar?

MR. KLAR: Yes, your Honor.

CROSS-EXAMINATION

BY MR. KLAR:

Q Mr. Couture, you testified earlier today in reference to this call made on January 10, 1971 from Horvath to Cotroni?

A Yes sir.

Q This is the call where you say Mr. Dasti had called Horvath in the morning of the 10th?

A Yes sir.

Q And told Horvath it was dangerous to do what he was doing?

A Yes.

Q Now, that would be the same day that Mr. Dasti was under 24 hour surveillance by the agents in New York, wouldn't that be right?

A I can't tell you, sir.

Q You know that Mr. Dasti was under 24 hour surveillance?

A Yes.

Q You know he was under 24 hour surveillance the entire time in New York, don't you?

MR. PUCCIO: Objection to the question, your Honor. There has already been testimony --

THE COURT: What?

MR. PUCCIO: There has already been testimony on this.

THE COURT: May I have the question.

(Whereupon the last question was read by the reporter.)'

THE COURT: Overruled, I will allow it. It may be preliminary to other questions.

A I was told by Staff Sergeant Sauve.

Q Mr. Dasti doesn't say what it is that is dangerous to you, does he?

A Mr. Dasti is not talking in this phone call, it is only Mr. Horvath to Mr. Cotroni.

Q Excuse me. Mr. Horvath doesn't say what Mr. Cotroni thought was dangerous?

MR. PUCCIO: You mean what Mr. Dasti --

Q What Mr. Dasti thought was dangerous.

A No.

Q Did Mr. Horvath relate Mr. Dasti's thought it was dangerous to sell suits?

A No.

Q Did he use the word suit at all?

A Not in any particular conversation.

Q Did Mr. Dasti or Mr. Horvath use any code words in this conversation with Mr. Cotroni to make you suspicious of what it was that was dangerous?

A No sir.

Q You testified also, did you not, there was another conversation, there was a call from Mr. Dasti to Mr. Cotroni long distance, is that correct?

A Yes.

Q And Mr. Dasti asked to speak to Mr. Cotroni and no one was home, is that right, except the maid?

A Yes.

Q You didn't a tape of that?

A No.

Q You kept a log?

A Yes.

Q You thought that was pertinent, is that why you kept it?

A Yes, I thought it was pertinent.

Q What was it that Mr. Dasti said to the maid that made you suspicious of this conversation that made it so pertinent?

A I knew that Mr. Cotroni was in New York so it was a long distance call made for Mr. Cotroni.

Q You knew Mr. Cotroni was in New York?

A Mr. Dasti was in New York.

Q Mr. Dasti didn't speak to Mr. Cotroni in that conversation, did he?

A No, he spoke with the maid.

Q Did he use any code words in this conversation to the maid that made you suspicious?

A No, as a matter of fact she said that Mr. Cotroni was not there.

Q You thought that was important enough to keep it as a log?

A Yes, I do.

Q Now, on the various logs -- withdrawn.

In these various logs that you kept, isn't it a fact that Mr. Dasti also had numerous conversations with different people about these junkets?

A Yes sir.

Q Isn't it a fact that one particular conversation in Vegas 3, January 21, 1971, he speaks with an individual by

the name of Cola?

A Yes.

Q In this particular conversation he also speaks about a gentleman by the name of Berke?

A Yes.

Q And in this conversation the gist of it was arranging the junket for Mr. Berke, is that right?

A Yes.

Q This would be the same junket that Mr. Cotroni was involved in, is that right?

A No.

Q Which type of junket, was that a different junket?

A Yes.

Q Do you recall in that conversation between Mr. Dasti and Mr. Lanzo, some conversation about $100,000?

A Have you got the reference, sir?

Q The only reference I have is Vegas 3, January 21st, between January 21st, 1971 and January 22nd, 1971, between 8:00 o'clock on the 21st and 8:00 o'clock on the 22nd. I don't have the page.

(Pause.)

A Yes sir.

Q This $100,000 related to a deal that Mr. Dasti

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thought he could work out that might bring him in $100,000 within the next year, is that right?

A Yes sir.

Q You weren't suspicious about this conversation, were you?

A You mean as I was suspicious for narcotics?

Q Did you think that perhaps these junkets were code names for narcotics?

A Not at all.

Q You didn't keep a master tape of this particular conversation, did you?

A No sir.

Q On that same day Mr. Dasti talks with Mr. Horvat.

A That is correct.

Q And he mentions that he has some $1300 for Mr. Cotroni, isn't that right?

A That is correct.

Q This particular conversation follows, the previous conversation about the junkets, don't they?

A Yes.

Q In which Mr. Dasti is arranging for people to go on junkets, is that right?

A Yes.

Q Which you already testified a profit was made

on each individual that went down?

A Yes.

Q This $1300 -- withdrawn.

This $1300, did it signal anything to you in the way of narcotics or anything?

A No sir.

Q The $1300 related to the conversations about junkets?

A I couldn't tell you.

Q It's possible?

A I couldn't tell you.

Q Also there was another conversation between Mr. Dasti and Mr. Lanzo talking about a John Jacques Cote?

A Yes.

Q You know who John Jacques Cote is?

A Yes.

Q Who is that?

A He is a fellow that lives in Montreal. He is an organizer for the Liberal Party for the Province of Quebec.

Q That is a political party in Montreal, is that correct?

A Yes.

Q Do you recall also in the same conversation

that they talked about a Mr. Gagnon?

A Yes sir.

Q Who was Mr. Gagnon?

MR. PUCCIO:. I object to this your Honor unless the relevance can be shown.

THE COURT: I will allow it. I don't see the relevance though.

MR. PUCCIO: May I have a side bar?

THE COURT: I will allow Mr. Klar to develop it.

MR. PUCCIO: May I be heard?

THE COURT: The jury may be excused.

Take a rather long recess. It might take about 15 minutes.

(The jury left the courtroom.)

THE COURT: Do you have some proof of the conversations concerning some local politician --

MR. KLAR: This line of questioning only has to do with the fact that there is a dollar figure being spoken about that has no relationship at all with narcotics. This is to counter the argument that the monies talked about in other conversations had to do with narcotics. As to these particular individuals, it's merely to show Mr. Dasti was involved

in giving money to different people, that he may have been giving the money that are referred to in other conversations to these very people and not for any other purpose.

MR. PUCCIO: I don't see the connection.

THE COURT: You see, when Mr. Iannuzzi was examining I thought there was a chance, at least he might argue, that the money Orsini took down to Acapulco had something to do with the junket money and had nothing to do with narcotics.

How can the talking to politicians -- you mean politicians were sending Mr. Cotroni money down in Acapulco?

MR. KLAR: No. Mr. Dasti was sending money. I have no idea what their relationship was to Mr. Cotroni.

THE COURT: There must be some logical reason for introducing conversations with politicians --

MR. KLAR: As I say, the only area I am trying to inquire about here is Mr. Dasti's connection with these particular individuals involving money.

THE COURT: I will allow it on the impossible chance you may be able to hook this money up with the money send down to Mr. Cotroni.

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If you can prove politicians send $1400 down to Mr. Cotroni instead of the other way around, I would like to be shown. That is an interesting thing.

(A recess taken at this time.)

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PM

THE COURT: Ready to proceed?

MR. PUCCIO: Your Honor, I would like to have some idea of how long your Honor will work tonight.

THE COURT: I would like to go to 5:30, and even 6:00 o'clock, but I notice it started to snow outside. I don't know now long Mr. Couture is going to be.

MR. IANNUZZI: I also know, if your Honor pleases, Mr. Puccio is too brave to say so, but I know he is not feeling well today.

MR. PUCCIO: That is all right. I can sit until 6:00 o'clock if necessary.

THE COURT: This is the better place for him to be, he is a single man, you know.

MR. IANNUZZI: Keep him out of trouble, Judge?

(The jury is in the jury box.)

THE COURT: All right, Mr. Klar.

CROSS EXAMINATION

BY MR. KLAR:

Q Mr. Couture, you stated earlier -- Withdrawn.

You made a reference to a conversation which you logged, where you put in the word "New York Transaction," do you recall that?

A Yes.

Q You already stated that those were your words,

is that right?

A Yes.

Q They didn't come from any of the participants to the call, is that correct?

A That is correct.

Q Had you ever heard Mr. Dasti refer to any of -- Withdrawn.

Had you ever heard Mr. Dasti refer to any transaction as a New York transaction?

A Never.

MR. KLAR: I have nothing further, your Honor.

THE COURT: Anything further, Mr. Puccio?

MR. PUCCIO: Yes.

REDIRECT EXAMINATION

BY MR. PUCCIO:

MR. PUCCIO: May I just have a minute, your Honor?

THE COURT: Yes.

(Pause.)

Q Now, let me direct your attention to a telephone conversation between Nick DiIorio and Frank Dasti which you have been asked several questions about on cross-examination by Mr. Iannuzzi between 8:00 P.M. on the 18th and 8:00 P.M. on the 19th of January, 1971, intercepted over the pbblic telephone at the Victoria Sporting Club.

A Yes.

Q You are familiar with that conversation, is that right?

A Yes.

Q You were asked by Mr. Iannuzzi certain questions pertaining to your log entry or your summary of that conversation?

A Yes, sir.

Q Do you remember those questions?

A Yes.

Q Will you translate that for us? Your log is in French, is that correct?

A Yes.

Q Translate for us, word for word, your log entry pertaining to that conversation and pertaining specifically to Nick DiIorio speaking of a guy whom he met with before he left on a trip --

MR. IANNUZZI: If your Honor please, I object to word-by-word renditions of the log, since, first of all, I've never seen the log myself. I was given the information --

THE COURT: Didn't you use that exact phrase?

MR. IANNUZZI: May I suggest, sir, I have never seen anything word-for-word. The Government never gave

us that.

THE COURT: Is that the basis of the objection?

MR. IANNUZZI: I am also suggesting the word-for-word reading of it may be improper, and perhaps the interpretation of what I went into would be satisfactory, but not a word-for-word rendition.

MR. PUCCIO: The word-for-word rendition was read on the record.

MR. IANNUZZI: Part of it.

THE COURT: That's all Mr. Puccio intends to inquire about. I will allow it. It is important to understand that it is the witness' testimony that counts, not what he reads from a summary. The summary is just used to refresh his recollection. I am allowing this because Mr. Iannuzzi used these very words, if my recollection is correct, and now, because he used those very words, and asked this witness whether it wasn't so that it was in a log, I think it's only fair this witness be allowed to say what the original is like, and I am only permitting it for that reason.

MR. IANNUZZI: I am objecting to a word-by-word reading. I have no objection to that which I went over, or the contents of the conversation to that extent. But reading word-by-word --

THE COURT: If you didn't do it, then Mr. Klar did. Even the parentheses were used.

MR. IANNUZZI: We never saw it. There was no such thing as the parentheses being read. I think the witness referred to it. There were parentheses in a different conversation about the New York transaction which --

THE COURT: That is just the conversation you are talking about.

MR. IANNUZZI: No, sir.

THE COURT: Where he alludes to the New York transaction.

MR. IANNUZZI: No, sir.

THE COURT: Isn't that the one --

MR. PUCCIO: That is the one concerning --

THE COURT: May I see it?

MR. PUCCIO: Yes.

THE COURT: You say this does not say, transaction which took place in New York?

MR. IANNUZZI: I never saw it, how can I tell?

THE COURT: I read it to you on the record.

MR. IANNUZZI: If you are telling me it is --

THE COURT: You didn't think I was reading to you word-for-word outside the presence of the jury?

MR. IANNUZZI? What I am saying is, I don't know what the rest of it is.

THE COURT: I didn't read the rest.

MR. PUCCIO: I didn't say I was going to refer to the rest of it.

THE COURT: Don't give the jury the impression you weren't read the portion I just read word-for-word.

MR. IANNUZZI: When you said the paren with the New York conversation, that is a conversation between Mr. Harvath and Mr. Dasti, not this one. And Mr. Couture testified to it when I began my cross-examination. And this is a separate conversation, and I've never seen this. I suggest --

THE COURT: Do you want me to go back to what I said outside the presence of the jury so the jury is advised --

MR. COUTURE: I have my notes of what you told me.

THE COURT: Go ahead, Mr. Puccio.

(continued on next page.)

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1PM

Q Can you read us the portion of your log, starting with --

THE COURT: Let me ask you this first:

Sitting there now, do you have some recollection of this conversation?

THE WITNESS: No, sir.

THE COURT: None at all?

THE WITNESS: Not at all, because there was so much involved --

THE COURT: I do not want to know the cause. Go ahead.

Q You did make these notes though shortly after you heard the conversation on the tapes; is that correct?

A Correct.

Q Can you read us that portion which pertains -- starts with Mr. DiIorio speaking of a guy he met with before he left on a trip, leaving out the portion in parentheses.

A Caller talks about a guy that he met before his going on a trip. This same guy would not have been satisfied of a certain thing that would have been done by Frank Dasti. That is all.

Q So the words -- the words you used in the log was a French meaning of satisfied?

A Satis fait in French means satisfied in English.

THE COURT: Again, this testimony is offered not for the truth of the conversation, but rather to explain this witness' answer to Mr. Iannuzzi's question, and if Mr. Klar asked about this same telephone call, and uses the same phrases, then it is to explain those answers.

Q The French word used is a word meaning satisfy?

A Correct.

Q Did you use a French word pertaining to that conversation which in English means angry or mad?

A No, sir.

Q Now, you indicated in response to a question by Mr. Klar that Mr. Dasti never used the words "New York transaction" per se; is that correct?

A Correct.

Q To the best of your recollection?

A Yes, sir.

Q However, let me direct your attention to a conversation --

THE COURT: I won't allow any reference to a document that is not in evidence. You may use it to refresh his recollection. If it does not refresh his recollection, then you may not ask the question.

MR. PUCCIO: All right.

Q Now, during a conversation between Orsini and

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Couture - redirect

Cotroni, the words "New York transaction" or their French equivalent, ever used to your recollection?

A Yes, sir.

Q Those words were used?

A They didn't mention from the "New York transaction."

Q They did or didn't?

A They didn't.

THE COURT: Did not?

THE WITNESS: They did not mention the "New York transaction."

Q Well, let me direct your attention to Vegas 12, page 12, and specifically point out to you this line (Indicating).

THE COURT: Do you now recollect some part of the conversation? It is only given to you so that you may refresh your recollection, that your memory be prodded. If it doesn't do that, then the answer is, It doesn't refresh your recollection.

THE WITNESS: They were talking about --

MR. IANNUZZI: Objection.

THE COURT: Do you recall that part of the conversation?

THE WITNESS: Yes, this one, yes.

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Couture - redirect

THE COURT: All right.

THE WITNESS: I remember that Orsini was to bring some money from -- to Cotroni in Mexico, but to my knowledge, there was no mention of "New York transaction."

MR. PUCCIO: I have no further questions.

THE COURT: Mr. Iannuzzi?

MR. IANNUZZI: Yes, if it pleases the Court.

RECROSS EXAMINATION

BY MR. IANNUZZI:

Q Mr. Couture, did you make a translation of that log in reference to the conversation when Mr. Cola spoke of Mr. Cotroni not being satisfied, or displeased?

A No, sir.

Q You did not supply that?

A I did supply it, but I was not the one that did the English translation.

Q I see.

Do you have the English translation there?

A Yes, sir.

MR. IANNUZZI: Is it permissible for counsel to see it, Judge?

THE WITNESS: No, I am sorry, concerning the Cola and Dasti, I do not have the English translation, neither

did I make it.

Q You did not make a translation?

A No, sir.

Q Well, there was one read this morning. Is it possible for the witness to see it, not counsel?

THE COURT: May I have Exhibit 43.

The portion I read--as a matter of fact, it was also read by Mr. Puccio and Mr. Puccio read more than I did.

"They then spoke in Italian," down to here. I will mark it off.

If you have no objection, I will read it now out loud so you can get it again.

MR. IANNUZZI: That is what I wanted to do.

THE COURT: You do not want that?

MR. IANNUZZI: Surely.

THE COURT: You do?

MR. IANNUZZI: Yes.

THE COURT: "Then they -- They then spoke in Italian, discussed certain papers that some person must have received. Cola spoke of a guy (possibly Frank Cotroni), whom he met with before he left on a trip (Acapulco). This guy (Frank Cotroni) would not have been pleased with something done by Frank Dasti re

(possibly a narcotics transaction) between Dasti and the American, Oddo, and Vanacora re transactions which took place on 1/10/71 in New York, and in (cocaine)."

I read from those two markings, so if Mr. Iannuzzi asks you any questions, you know what it refers to.

THE WITNESS: This English translation --

Q I did not ask you a question.

You didn't make that English translation?

A Neither did any member of the Quebec Police Force.

Q Is it your testimony that that translation that the Judge just read is incorrect?

A I think so, sir.

Q It's incorrect?

A I think so, sir.

Q And when I asked you questions concerning it before, I asked you questions concerning the fact --

THE COURT: You may continue.

MR. IANNUZZI: Thank you.

Q -- I asked you questions concerning the fact that in that conversation it was discussed that Mr. Cotroni was displeased -- unhappy about --

A I remember it, sir.

Q Is that correct?

A Correct.

Q And you indicated that that is true; is that true or not?

A Correct.

Q That's a fact.

A It is not a fact, because if I looked word-by-word -- If you take it in French, in English you translate, He wouldn't be satisfied -- satisfied in English.

Q The satisfied part of it is your word?

A Yes.

Q It is not Mr. Cola's word?

A No, no. It is written here satis fait, a French word. It is Mr. Cola's word.

Q Weren't they speaking in Italian?

A Always French.

Q Does it indicate on the top "In Italian"?

A No, sir, French. Mr. Cola and Mr. Dasti always speak together in French.

Q What I am asking is this:

When those words that appear there in the log, are your words?

A The words?

Q Is that a fact?

A It is my word that I used?

Q Yes.

A I relate the words they say, and I use my word.

Q In that conversation, there is no question but that Mr. Cotroni was not pleased, is that correct, dissatisfied?

A Mr. Cotroni was not satisfied concerning a certain thing that Mr. Dasti would have done.

Q And he was not pleased or happy about the situation, was he?

A He was not satisfied, sir.

Q Yes.

That hasn't changed, that is what was discussed, that Cotroni was not -- to restrict it to the words that you want to restrict it to, -- was not satisfied?

MR. PUCCIO: I object to the form of the question.

THE COURT: Sustained as to form.

Are you asking him what was said in the conversation, or are you asking him to translate the French word in that portion of the summary?

MR. IANNUZZI: Well, if your Honor pleases, I already asked him whether that was the word.

THE COURT: What are you asking him in this question?

MR. IANNUZZI: I am asking him whether or not -- I am asking him whether or not in fact Cotroni was satisfied -- pleased with what Mr. Dasti did?

MR. PUCCIO: Objection to that.

THE COURT: Objection sustained.

Q Was Mr. Cotroni satisfied with what Mr. Dasti did?

MR. PUCCIO: Objection.

THE COURT: Objection sustained.

Q And when he was not satisfied with what Mr. Dasti did --

MR. PUCCIO: Same objection.

THE COURT: Objection sustained.

MR. IANNUZZI: In order to aid me, because I am confused by your ruling --

THE COURT: I will be glad to explain it to you. You are asking this witness to tell this jury Mr. Cotroni's state of mind. That's the form of the question.

MR. IANNUZZI: I am asking about that conversation.

THE COURT: Objection sustained.

MR. IANNUZZI: Mr. Cotroni did make --

THE COURT: Objection sustained.

MR. IANNUZZI: I am asking your Hnnor for guid-

ance, and you are sustaining objections.

THE COURT: You may ask him what the Franch translation meant, and you may ask him if he recalls the conversation itself. You may ask him anything with regard to the summary, but do not ask him what happened.

MR. IANNUZZI: I understand that.

Q In that conversation --

MR. IANNUZZI: Thank you, sir.

Q -- In that conversation, it does not indicate that Mr. Cotroni was dissatisfied with the type of cocaine it was --

MR. PUCCIO: I object.

THE COURT: Objection sustained, unless he remembers the conversation.

Q Do you remember the conversation, sir?

A No, sir.

Q Are you now testifying that you do not know anything about that conversation except what appears --

MR. PUCCIO: Objection.

MR. IANNUZZI: May I finish?

THE COURT: Surely.

Q -- Is it your testimony that you do not remember -- that you don't remember anything about the conversation except what is on that log?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q All right, now, the log does not indicate that Mr. Cotroni seemed dissatisfied because of the amount of money involved, does it?

MR. PUCCIO: I am going to object.

THE COURT: Objection sustained.

Q Does it indicate that Mr. Cotroni was dissatisfied with the entire thing?

MR. PUCCIO: I object.

THE COURT: Does the log indicate that?

MR. IANNUZZI: If your Honor pleases, if I might --

THE COURT: The jury may be excused.

(Jury leaves courtroom.)

THE COURT: You agree to this point this witness said that he does not remember a thing about the conversation?

MR. IANNUZZI: He just so testified.

THE COURT: You introduced this conversation on cross-examination.

MR. IANNUZZI: Yes.

THE COURT: You made it appear that this was Mr. Cotroni on the witness stand, telling the jury that he

did not like this cocaine deal at all.

MR. IANNUZZI: If your Honor pleases --

THE COURT: Wait, now. Let me get through.

MR. IANNUZZI: Certainly.

THE COURT: I allowed Mr. Puccio on redirect to show the jury that that isn't what was meant at all, that this is only a summary of a conversation.

MR. IANNUZZI: I understand.

THE COURT: That he doesn't remember the conversation, and the best you can do is first try to prod his recollection and see if he can recall something, and then to ask him what he meant -- Not what Mr. Cotroni felt and how he felt -- What Mr. Cotroni said -- what he meant when he put it down, or how he translated it from the French into the English.

MR. IANNUZZI: That is what I was trying to get at.

THE COURT: Really? You seemed to be talking about everything but that. Every question seemed to indicate that Mr. Cotroni was saying --

MR. IANNUZZI: He wasn't even a party to the conversation.

THE COURT: That is right, you and I agree.

MR. IANNUZZI: Finally.

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Jess A Kuntz

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